Enforcement and Compliance History Online

Accessing SEP Information in ECHO

- Information on settlements that included SEPs can be found in EPA's Enforcement and Compliance History Online (ECHO) database. ECHO includes information, including a description of any SEP, for settlements concluded from FY 2001 to the present. To access information about SEPs in concluded settlements:

- Go to: http://echo.epa.gov/echo
- Click on Advanced Tools
- Click on Advanced EPA Civil Enforcement Case Search
- Use the pull down menus to fill in search parameters:
  - Facility Locations: Users can search for SEPs in settlements that occurred in specific EPA Regions, or by City and State.
  - Case Attributes: Users can search for SEPs in settlements for violations of specific statutes and/or sections. In addition, search parameters include type of settlement (judicial/administrative, federal facility, multimedia, voluntary self-disclosure, enforcement program and type, and national priority area.)
  - Case Milestones and Dates: Users can search for judicial or administrative settlements by status (lodged, filed, etc.,) by fiscal year or by date range.
  - Enforcement Outcomes/Settlements: Users can search for settlements that included SEPs by penalty amount, cost recovery awarded, complying action, SEP activity category, and/or total value of SEP.

- ECHO will generate a report listing all settlements that meet the search parameters. From this list, links to more detailed settlement information will be available.

To: Starfield, Lawrence[Starfield.Lawrence@epa.gov]
Cc: Hull, George[Hull.George@epa.gov]; Kelley, Rosemarie[Kelley.Rosemarie@epa.gov]; Koslow, Karin[Koslow.Karin@epa.gov]; Egan, Patrick[egan.patrick@epa.gov]; Fogarty, Johnpc[Fogarty.Johnpc@epa.gov]; Makepeace, Caroline[Makepeace.Caroline@epa.gov]
From: Bodine, Susan[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=8C2CC6086FCC44C3BE6B5D32B262D983-BODINE, SUS]
Sent: Fri 8/23/2019 7:46:51 PM (UTC)
Subject: Re: desk statement

Ex. 5 Deliberative Process (DP)

Sent from my iPhone

On Aug 23, 2019, at 2:25 PM, Starfield, Lawrence <Starfield.Lawrence@epa.gov> wrote:

Ex. 5 Deliberative Process (DP)

Larry

Sent from my iPhone

On Aug 23, 2019, at 10:50 AM, Hull, George <Hull.George@epa.gov> wrote:

Susan, Larry, Rosemarie and Karin,

Please find below for your review a draft desk statement to be used for press inquiries we may receive on the recent DOJ memo on SEPs. **Ex. 5 Deliberative Process (DP)**

Ex. 5 Deliberative Process (DP)

To: Starfield, Lawrence[Starfield.Lawrence@epa.gov]; Hull, George[Hull.George@epa.gov]
Cc: Bodine, Susan[bodine.susan@epa.gov]; Kelley, Rosemarie[Kelley.Rosemarie@epa.gov]; Koslow, Karin[Koslow.Karin@epa.gov]; Egan, Patrick[egan.patrick@epa.gov]; Makepeace, Caroline[Makepeace.Caroline@epa.gov]
From: Fogarty, Johnpc[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=8546B387C687410D88EEEE387DADDF56-JFOGAR02]
Sent: Fri 8/23/2019 7:44:23 PM (UTC)
Subject: RE: desk statement

The policy is dated 8/21. The additions look accurate, so no issue there.

From: Starfield, Lawrence <Starfield.Lawrence@epa.gov>
Sent: Friday, August 23, 2019 3:25 PM
To: Hull, George <Hull.George@epa.gov>
Cc: Bodine, Susan <bodine.susan@epa.gov>; Kelley, Rosemarie <Kelley.Rosemarie@epa.gov>; Koslow, Karin <Koslow.Karin@epa.gov>; Egan, Patrick <egan.patrick@epa.gov>; Fogarty, Johnpc <Fogarty.Johnpc@epa.gov>; Makepeace, Caroline <Makepeace.Caroline@epa.gov>
Subject: Re: desk statement

I'd like to add the point that we take SEPs into consideration when setting a penalty. What do folks think about the underlined revisions below?

Larry

Sent from my iPhone
On Aug 23, 2019, at 10:50 AM, Hull, George <Hull.George@epa.gov> wrote:

Susan, Larry, Rosemarie and Karin,

Please find below for your review a draft desk statement to be used for press inquiries we may receive on the recent

Ex. 5 Deliberative Process (DP)

To: R5 ORC EPA[R5_ORC_EPA@epa.gov]
Cc: Walts, Alan[walts.alan@epa.gov]; Anderson, Andrew[anderson.andrew@epa.gov]; Starfield, Lawrence[Starfield.Lawrence@epa.gov]
From: Nelson, Leverett[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=2229A07C2CB442B182332D9DCC325F13-LNELSON]
Sent: Wed 3/21/2018 4:02:43 PM (UTC)
Subject: Today's Second Enforcement Update

Dear ORC:

An article entitled "Consent Decree Dispute Highlights Changes in SEP, Mitigation Projects Due to New DOJ Settlement Policy" is worth reading, to get the private bar view. https://www.lexology.com/r.ashx?i=5824522&l=7YMN2MJ

The article also contains a link to the 1/9/18 DOJ policy on "Settlement Payments to Third Parties in ENRD Cases," providing guidance on the 6/5/17 Attorney General memo entitled "Prohibition on Settlement Payments to Third Parties." Bert distributed the 1/9/18 memo to all ORC attorneys a few days after it was issued. Ex. 5 Attorney Client (AC) Ex. 5 Attorney Client (AC) This article is a clear indication that the policy is now freely circulating.

While on the subject of enforcement, we were pleased to see confirmed in today's awards announcement that all three of the Region's 2017 gold medal team nominations highlight ORC work and include ORC team nominees: DuPont, Enbridge and S.H. Bell. Way to go, ORC! You'll note in that message that attorneys and non-attorneys from ORC are nominated, which is important.

Meanwhile, the pace of lodging and entry of Region 5 consent decrees in 2018 continues at a remarkable pace. Within the last month or so, please note the following list, most recent first:

Entered:

2/14/18	S.H. Bell (CAA 303/CERCLA 106)	Matson/Mikalian
2/13/18	United Rolls (CAA)	McAuliffe
2/12/18	St. Regis/ Cass Lake (CERCLA)	Turner/Wester

Lodged:

3/19/18	Martin Marietta (CAA)	Schnieders
3/9/18	Midwest Generation (CAA)	Tennenbaum
2/27/18	North Sanitary/ Valleycrest (CERCLA)	Wood-Chi
2/15/18	Westshore Palos (CWA 311)	Clarizio
2/9/18	City of Middletown, OH (CWA)	Prichard

Ex. 5 Attorney Work Product (AWP)

So, good things are happening in ORC. Thanks to you all for the hard work (including on matters not mentioned above).

-Rett/Jane

To: Starfield, Lawrence[Starfield.Lawrence@epa.gov]; Bodine, Susan[bodine.susan@epa.gov]; Kelley, Rosemarie[Kelley.Rosemarie@epa.gov]; Koslow, Karin[Koslow.Karin@epa.gov]
Cc: Egan, Patrick[egan.patrick@epa.gov]
From: Hull, George[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=F6DD2FAB273845218756495C7A2D94AD-GHULL]
Sent: Fri 8/23/2019 3:50:53 PM (UTC)
Subject: RE: desk statement

Susan, Larry, Rosemarie and Karin,

Please find below for your review a draft desk statement to be used for press inquiries we may receive on the recent DOJ memo on

Ex. 5 Deliberative Process (DP)

To: Starfield, Lawrence[Starfield.Lawrence@epa.gov]
Cc: Egan, Patrick[egan.patrick@epa.gov]; Kelley, Rosemarie[Kelley.Rosemarie@epa.gov]; Koslow, Karin[Koslow.Karin@epa.gov]
From: Hull, George[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=F6DD2FAB273845218756495C7A2D94AD-GHULL]
Sent: Thur 8/22/2019 10:38:40 PM (UTC)
Subject: Re: desk statement

Yes, will do. - George

Sent from my iPhone

On Aug 22, 2019, at 6:06 PM, Starfield, Lawrence <Starfield.Lawrence@epa.gov> wrote:

Please work with OCE on a desk statement re: SEPs. Three key points:

1. The new policy is DOJ's.
2. EPA has not changed its SEP policy.
3. EPA is continuing to use SEPs in its administrative cases.

Then we should share with it the Regions.

Thanks.

Larry

To: Starfield, Lawrence[Starfield.Lawrence@epa.gov]
From: Gelber, Bruce (ENRD)[Bruce.Gelber@usdoj.gov]
Sent: Wed 8/21/2019 11:50:24 PM (UTC)
Subject: RE: confidential

Ex. 5 AC/AWP/DP

-----Original Message-----
From: Starfield, Lawrence <Starfield.Lawrence@epa.gov>
Sent: Wednesday, August 21, 2019 8:43 AM
To: Gelber, Bruce (ENRD) <BGelber@ENRD.USDOJ.GOV>
Subject: confidential

Bruce,

Rosemarie is trying to set up some time with you and Tom for us to discuss next steps.

Ex. 5 AC/AWP/DP

Larry

This message is CONFIDENTIAL, and may contain legally privileged information. If you are not the intended recipient, or believe you received this communication in error, please delete it immediately, do not copy, and notify the sender. Thank you.

-----Original Message-----
From: Clark, Jeffrey (ENRD) <jbc1@usdoj.gov>
Sent: Tuesday, August 20, 2019 10:01 PM
To: Bodine, Susan <bodine.susan@epa.gov>
Cc: bruce.gelber@usdoj.gov; Starfield, Lawrence <Starfield.Lawrence@epa.gov>
Subject: Re: Emailing: ENRD State and Local SEP Memo Internal 8 20 19 Version Shared with EPA.pdf, ENRD State and Local SEP Memo Public 8 21 19.pdf

Ex. 5 AC/AWP/DP

Jeff

Sent from my iPhone

> On Aug 20, 2019, at 9:46 PM, Bodine, Susan <bodine.susan@epa.gov> wrote:
>
> Ex. 5 Attorney Client (AC)
>

Ex. 5 AC/AWP/DP

>
> Susan
>
> Sent from my iPad
>
>> On Aug 20, 2019, at 7:58 PM, Clark, Jeffrey (ENRD) <jbc1@usdoj.gov> wrote:
>>
>> PRIVILEGED & CONFIDENTIAL
>> ATTORNEY WORK PRODUCT
>> DELIBERATIVE -- FOIA-EXEMPT

Ex. 5 AC/AWP/DP

Ex. 5 AC/AWP/DP

>>
>> Jeff
>>
>>
>> -----Original Message-----
>> From: Bodine, Susan <bodine.susan@epa.gov>
>> Sent: Tuesday, August 20, 2019 5:34 PM
>> To: Clark, Jeffrey (ENRD) <JClark@ENRD.USDOJ.GOV>
>> Cc: Gelber, Bruce (ENRD) <BGelber@ENRD.USDOJ.GOV>; Starfield,
>> Lawrence <Starfield.Lawrence@epa.gov>
>> Subject: RE: Emailing: ENRD State and Local SEP Memo Internal 8 20 19
>> Version Shared with EPA.pdf, ENRD State and Local SEP Memo Public 8
>> 21 19.pdf
>>
>> Jeff,

Ex. 5 AC/AWP/DP

Ex. 5 AC/AWP/DP

>>
>> Susan
>>
>>
>> Susan Parker Bodine
>> Assistant Administrator
>> Office of Enforcement and Compliance Assurance
>> 202-564-2440
>>
>>
>> This message is CONFIDENTIAL, and may contain legally privileged information. If you are not the intended recipient, or believe you received this communication in error, please delete it immediately, do not copy, and notify the sender. Thank you.
>>
>>
>>
>> -----Original Message-----
>> From: Clark, Jeffrey (ENRD) <jbc1@usdoj.gov>
>> Sent: Tuesday, August 20, 2019 11:07 AM
>> To: Bodine, Susan <bodine.susan@epa.gov>
>> Cc: bruce.gelber@usdoj.gov
>> Subject: Emailing: ENRD State and Local SEP Memo Internal 8 20 19
>> Version Shared with EPA.pdf, ENRD State and Local SEP Memo Public 8
>> 21 19.pdf
>>
>> Susan,
>>

Ex. 5 AC/AWP/DP

Ex. 5 AC/AWP/DP

Ex. 6 Personal Privacy (PP)

>> Jeff

To: Kelley, Rosemarie[Kelley.Rosemarie@epa.gov]; Egan, Patrick[egan.patrick@epa.gov]
Cc: Shiffman, Cari[Shiffman.Cari@epa.gov]; Koslow, Karin[Koslow.Karin@epa.gov]; Buterbaugh, Kristin[Buterbaugh.Kristin@epa.gov]; Starfield, Lawrence[Starfield.Lawrence@epa.gov]; Makepeace, Caroline[Makepeace.Caroline@epa.gov]
From: Hull, George[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=F6DD2FAB273845218756495C7A2D94AD-GHULL]
Sent: Wed 8/21/2019 7:20:51 PM (UTC)
Subject: RE: DOJ sidelines popular enforcement tool -- Wednesday, August 21, 2019 -- www.eenews.net

Below is a statement that we had used to respond to a press inquiry earlier this month. I'll engage with Susan and Larry to ask their direction for a statement in light of the memo from Jeff Clark today. Thanks, George

EPA has not changed its 2015 policy regarding supplemental environmental projects (SEPs) in settlement agreements. A SEP is a beneficial environmental project or activity to which a party agrees that goes beyond what could legally be required in order for the party to return to compliance. On November 7, 2018, former Attorney General Jeff Sessions issued a Department of Justice (DOJ) policy entitled Principles and Procedures for Civil Consent Decrees and Settlement Agreements with State and Local Governmental Entities – see https://www.justice.gov/opa/pr/justice-department-releases-memorandum-litigation-guidelines-civil-consent-decrees-and. As a policy matter, DOJ requires that judicial settlements with a state or local entity that include SEPs must first be reviewed and approved by the Associate Attorney General.

-----Original Message-----
From: Kelley, Rosemarie <Kelley.Rosemarie@epa.gov>
Sent: Wednesday, August 21, 2019 1:58 PM
To: Hull, George <Hull.George@epa.gov>; Egan, Patrick <egan.patrick@epa.gov>
Cc: Shiffman, Cari <Shiffman.Cari@epa.gov>; Koslow, Karin <Koslow.Karin@epa.gov>; Buterbaugh, Kristin <Buterbaugh.Kristin@epa.gov>; Starfield, Lawrence <Starfield.Lawrence@epa.gov>; Makepeace, Caroline <Makepeace.Caroline@epa.gov>
Subject: FW: DOJ sidelines popular enforcement tool -- Wednesday, August 21, 2019 -- www.eenews.net

George, Pat-

We should develop a statement. We're likely to get inquiries.

Rosemarie

-----Original Message-----
From: Dworkin, Karen (ENRD) <Karen.Dworkin@usdoj.gov>
Sent: Wednesday, August 21, 2019 1:56 PM
To: Kelley, Rosemarie <Kelley.Rosemarie@epa.gov>
Subject: LAW: DOJ sidelines popular enforcement tool -- Wednesday, August 21, 2019 -- www.eenews.net

https://www.eenews.net/greenwire/2019/08/21/stories/1061022641

To: Starfield, Lawrence[Starfield.Lawrence@epa.gov]
From: Bodine, Susan[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=8C2CC6086FCC44C3BE6B5D32B262D983-BODINE, SUS]
Sent: Tue 8/20/2019 9:54:54 PM (UTC)
Subject: FW: Supplemental Environmental Projects

From: Bodine, Susan
Sent: Tuesday, August 20, 2019 4:40 PM
To: Murray, Claire M. (OASG) <Claire.Murray@usdoj.gov>
Cc: Clark, Jeffrey (ENRD) <jbc1@usdoj.gov>
Subject: RE: Supplemental Environmental Projects

Ex. 5 AC/AWP/DP

Susan

From: Murray, Claire M. (OASG) <Claire.Murray@usdoj.gov>
Sent: Sunday, August 18, 2019 11:44 PM
To: Bodine, Susan <bodine.susan@epa.gov>
Cc: Clark, Jeffrey (ENRD) <jbc1@usdoj.gov>
Subject: RE: Supplemental Environmental Projects

Susan,

Ex. 5 AC/AWP/DP

Ex. 5 AC/AWP/DP

All my best,
Claire

From: Bodine, Susan <bodine.susan@epa.gov>
Sent: Friday, August 9, 2019 5:26 PM
To: Murray, Claire M. (OASG) <cmmurray@jmd.usdoj.gov>
Cc: Clark, Jeffrey (ENRD) <JClark@ENRD.USDOJ.GOV>
Subject: Supplemental Environmental Projects

Claire,

Ex. 5 AC/AWP/DP

Have a good weekend.

Susan

Susan Parker Bodine
Assistant Administrator
Office of Enforcement and Compliance Assurance
202-564-2440

This message is CONFIDENTIAL, and may contain legally privileged information. If you are not the intended recipient, or believe you received this communication in error, please delete it immediately, do not copy, and notify the sender. Thank you.

To: Starfield, Lawrence[Starfield.Lawrence@epa.gov]
From: Kelley, Rosemarie[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=23B7C900323047FCA012DF62C58C4D22-RKELLEY]
Sent: Thur 9/14/2017 9:56:40 PM (UTC)
Subject: RE: SEPs and mitigation

Got it.

We were trying to do something quick to get to her in advance of the meeting with DOJ tomorrow, but the material is no help if she does not read it.

Rosemarie

From: Starfield, Lawrence
Sent: Thursday, September 14, 2017 5:55 PM
To: Kelley, Rosemarie <Kelley.Rosemarie@epa.gov>
Subject: RE: SEPs and mitigation

Just my advice. Shorter transmissions gets read more often. And it is appreciated when we pull out the key material.

From: Kelley, Rosemarie
Sent: Thursday, September 14, 2017 5:40 PM
To: Starfield, Lawrence <Starfield.Lawrence@epa.gov>
Subject: RE: SEPs and mitigation

Okay. Thanks.

Rosemarie

From: Starfield, Lawrence
Sent: Thursday, September 14, 2017 5:21 PM
To: Kelley, Rosemarie <Kelley.Rosemarie@epa.gov>
Subject: RE: SEPs and mitigation

Ex. 5 AC/AWP/DP

Larry

From: Kelley, Rosemarie
Sent: Thursday, September 14, 2017 2:42 PM
To: Starfield, Lawrence <Starfield.Lawrence@epa.gov>
Subject: SEPs and mitigation

Larry -

Ex. 5 AC/AWP/DP

Ex. 5 AC/AWP/DP

To: Starfield, Lawrence[Starfield.Lawrence@epa.gov]
From: Kelley, Rosemarie[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=23B7C900323047FCA012DF62C58C4D22-RKELLEY]
Sent: Fri 9/22/2017 9:29:55 PM (UTC)
Subject: FW: *LARRY - Houston and Corpus Christi

Ex. 5 AC/DP

From: Payne, James
Sent: Friday, September 22, 2017 5:21 PM
To: Coleman, Sam <Coleman.Sam@epa.gov>; Starfield, Lawrence <Starfield.Lawrence@epa.gov>
Cc: Kelley, Rosemarie <Kelley.Rosemarie@epa.gov>; McDonald, Scott <mcdonald.scott@epa.gov>
Subject: Re: *LARRY - Houston and Corpus Christi

Ex. 5 AC/DP

Sent from my iPhone
On Sep 22, 2017, at 3:37 PM, Payne, James <payne.james@epa.gov> wrote:

ENRD front office is Ex. 6 Personal Privacy (PP)

My suggestion is a call w the involved DOJ managers, Larry and Sam. Checking now for Larry's availability.

Jim
214-490-6707 cell

Sent from my iPhone
On Sep 22, 2017, at 3:33 PM, Coleman, Sam <Coleman.Sam@epa.gov> wrote:

Ex. 5 Deliberative Process (DP)

Samuel Coleman, P. E.,
Deputy Regional Administrator

214.665.2100 Ofc
214.665. 3110 Desk
214.665.2016 Cell

Coleman.sam@epa.gov

Sent from my iPhone
On Sep 22, 2017, at 4:01 PM, Payne, James <payne.james@epa.gov> wrote:

Larry - would you be available for a call this aft w Nat and Tom at DOJ to consult on this? They would be available. I've had a series of calls w them.

Sam - could include you as well, if your DC travel schedule today allowed.

Jim
214-490-6707 cell

Sent from my iPhone
Begin forwarded message:

From: payne.james@epa.gov
Date: September 21, 2017 at 3:58:37 PM CDT
To: Nathaniel.Douglas@usdoj.gov, Thomas.Carroll@USDOJ.GOV
Cc: Scott McDonald <mcdonald.scott@epa.gov>, Denton.Loren@epa.gov
Subject: Houston and Corpus Christi

As discussed.

Ex. 5 AC/DP

Sent from my iPhone

To: Kelley, Rosemarie[Kelley.Rosemarie@epa.gov]; Koslow, Karin[Koslow.Karin@epa.gov]
From: Starfield, Lawrence[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=8A89D6CD217D4254A5879ABECB3F314E-STARFIELD, LAWRENCE]
Sent: Mon 8/19/2019 7:30:54 PM (UTC)
Subject: SEPs

Rosemarie/Karin,

Ex. 5 AC/AWP/DP

To discuss.

Larry

This message is CONFIDENTIAL, and may contain legally privileged information. If you are not the intended recipient, or believe you received this communication in error, please delete it immediately, do not copy, and notify the sender. Thank you.

To: Bodine, Susan[bodine.susan@epa.gov]
From: Starfield, Lawrence[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=8A89D6CD217D4254A5879ABECB3F314E-STARFIELD, LAWRENCE]
Sent: Mon 8/19/2019 7:14:50 PM (UTC)
Subject: RE: Supplemental Environmental Projects

OK.

From: Bodine, Susan <bodine.susan@epa.gov>
Sent: Monday, August 19, 2019 3:13 PM
To: Starfield, Lawrence <Starfield.Lawrence@epa.gov>
Subject: RE: Supplemental Environmental Projects

Ex. 5 Deliberative Process (DP)

From: Starfield, Lawrence <Starfield.Lawrence@epa.gov>
Sent: Monday, August 19, 2019 3:10 PM
To: Bodine, Susan <bodine.susan@epa.gov>
Subject: RE: Supplemental Environmental Projects

Agreed, and Rosemarie? The context might be helpful.

Larry

From: Bodine, Susan <bodine.susan@epa.gov>
Sent: Monday, August 19, 2019 10:21 AM
To: Starfield, Lawrence <Starfield.Lawrence@epa.gov>
Subject: FW: Supplemental Environmental Projects

Ex. 5 AC/DP

From: Murray, Claire M. (OASG) <Claire.Murray@usdoj.gov>
Sent: Sunday, August 18, 2019 11:44 PM
To: Bodine, Susan <bodine.susan@epa.gov>
Cc: Clark, Jeffrey (ENRD) <jbc1@usdoj.gov>
Subject: RE: Supplemental Environmental Projects

Susan,

Ex. 5 AC/AWP/DP

Ex. 5 AC/AWP/DP

All my best,
Claire

From: Bodine, Susan <bodine.susan@epa.gov>
Sent: Friday, August 9, 2019 5:26 PM
To: Murray, Claire M. (OASG) <cmmurray@jmd.usdoj.gov>
Cc: Clark, Jeffrey (ENRD) <JClark@ENRD.USDOJ.GOV>
Subject: Supplemental Environmental Projects

Claire,

Ex. 5 AC/AWP/DP

Thanks for considering my views.

Have a good weekend.

Susan

Susan Parker Bodine
Assistant Administrator
Office of Enforcement and Compliance Assurance
202-564-2440

This message is CONFIDENTIAL, and may contain legally privileged information. If you are not the intended recipient, or believe you received this communication in error, please delete it immediately, do not copy, and notify the sender. Thank you.

To: Gelber, Bruce (ENRD)[Bruce.Gelber@usdoj.gov]
From: Starfield, Lawrence[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=8A89D6CD217D4254A5879ABECB3F314E-STARFIELD, LAWRENCE]
Sent: Mon 8/19/2019 7:00:35 PM (UTC)
Subject: FW: Supplemental Environmental Projects
Memorandum regarding SEPs in Settlements with State and Local Governments (August 9, 2019).pdf

Bruce,

Ex. 5 AC/DP

Larry

This message is CONFIDENTIAL, and may contain legally privileged information. If you are not the intended recipient, or believe you received this communication in error, please delete it immediately, do not copy, and notify the sender. Thank you.

From: Bodine, Susan <bodine.susan@epa.gov>
Sent: Monday, August 19, 2019 10:21 AM
To: Starfield, Lawrence <Starfield.Lawrence@epa.gov>
Subject: FW: Supplemental Environmental Projects

Ex. 5 AC/DP

From: Murray, Claire M. (OASG) <Claire.Murray@usdoj.gov>
Sent: Sunday, August 18, 2019 11:44 PM
To: Bodine, Susan <bodine.susan@epa.gov>
Cc: Clark, Jeffrey (ENRD) <jbc1@usdoj.gov>
Subject: RE: Supplemental Environmental Projects

Ex. 5 AC/AWP/DP

Ex. 5 AC/AWP/DP

All my best,
Claire

From: Bodine, Susan <bodine.susan@epa.gov>
Sent: Friday, August 9, 2019 5:26 PM
To: Murray, Claire M. (OASG) <cmmurray@jmd.usdoj.gov>
Cc: Clark, Jeffrey (ENRD) <JClark@ENRD.USDOJ.GOV>
Subject: Supplemental Environmental Projects

Claire,

Ex. 5 AC/AWP/DP

Thanks for considering my views.

Have a good weekend.

Susan

Susan Parker Bodine
Assistant Administrator
Office of Enforcement and Compliance Assurance
202-564-2440

This message is CONFIDENTIAL, and may contain legally privileged information. If you are not the intended recipient, or believe you received this communication in error, please delete it immediately, do not copy, and notify the sender. Thank you.

To: Bailey-Morton, Ethel[Bailey-Morton.Ethel@epa.gov]
From: Starfield, Lawrence[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=8A89D6CD217D4254A5879ABECB3F314E-STARFIELD, LAWRENCE]
Sent: Sat 8/17/2019 12:31:02 AM (UTC)
Subject: Fwd: Follow-up items from OCE weekly 8/15/19
PLAW-114publ322 WIIN Act.pdf
ATT00001.htm
Memorandum regarding SEPs in Settlements with State and Local Governments (August 9, 2019).pdf
ATT00002.htm
BILLS-115s3021enr. Americas Water Infrastructure Act 2018.pdf
ATT00003.htm
dieselepslegislation-memotoregions.pdf
ATT00004.htm

Please print and put it on my chair. Thanks.

Sent from my iPhone

Begin forwarded message:

From: "Bodine, Susan" <bodine.susan@epa.gov>
To: "Mirza, Sabah" <Mirza.Sabah@epa.gov>, "Kelley, Rosemarie" <Kelley.Rosemarie@epa.gov>, "Koslow, Karin" <Koslow.Karin@epa.gov>, "Buterbaugh, Kristin" <Buterbaugh.Kristin@epa.gov>, "Sullivan, Greg" <Sullivan.Greg@epa.gov>, "Saenz, Diana" <Saenz.Diana@epa.gov>, "Pollins, Mark" <Pollins.Mark@epa.gov>, "Theis, Joseph" <Theis.Joseph@epa.gov>, "Denton, Loren" <Denton.Loren@epa.gov>, "Zimny, James" <zimny.james@epa.gov>, "Rae, Sarah" <Rae.Sarah@epa.gov>, "Porter, Amy" <Porter.Amy@epa.gov>, "Grisby, Erin" <grisby.erin@epa.gov>, "Ziegel, Dean" <Ziegel.Dean@epa.gov>, "Makepeace, Caroline" <Makepeace.Caroline@epa.gov>
Cc: "Starfield, Lawrence" <Starfield.Lawrence@epa.gov>, "Johnson, Kathleen" <Johnson.Kathleen@epa.gov>, "Traylor, Patrick" <traylor.patrick@epa.gov>, "Shiffman, Cari" <Shiffman.Cari@epa.gov>
Subject: RE: Follow-up items from OCE weekly 8/15/19

On SEP strategy meeting,

Ex. 5 AC/DP

Susan

From: Mirza, Sabah <Mirza.Sabah@epa.gov>
Sent: Thursday, August 15, 2019 5:32 PM
To: Kelley, Rosemarie <Kelley.Rosemarie@epa.gov>; Koslow, Karin <Koslow.Karin@epa.gov>; Buterbaugh, Kristin <Buterbaugh.Kristin@epa.gov>; Sullivan, Greg <Sullivan.Greg@epa.gov>; Saenz, Diana <Saenz.Diana@epa.gov>; Pollins, Mark <Pollins.Mark@epa.gov>; Theis, Joseph <Theis.Joseph@epa.gov>; Denton, Loren <Denton.Loren@epa.gov>; Zimny, James <zimny.james@epa.gov>; Rae, Sarah <Rae.Sarah@epa.gov>; Porter, Amy <Porter.Amy@epa.gov>; Grisby, Erin <grisby.erin@epa.gov>; Ziegel, Dean <Ziegel.Dean@epa.gov>; Makepeace, Caroline <Makepeace.Caroline@epa.gov>
Cc: Bodine, Susan <bodine.susan@epa.gov>; Starfield, Lawrence <Starfield.Lawrence@epa.gov>; Johnson, Kathleen

<Johnson.Kathleen@epa.gov>; Traylor, Patrick <traylor.patrick@epa.gov>; Shiffman, Cari <Shiffman.Cari@epa.gov>
Subject: RE: Follow-up items from OCE weekly 8/15/19

Hi all,

Here are the follow-up items from today's OCE meeting:

Ex. 5 Attorney Client (AC)

4. Set up EPA SEP Strategy Meeting

Thanks,
Sabah

~~~~~~~~~~~~~~~~~~~~~~

Sabah Mirza, Special Assistant
Office of Enforcement and Compliance Assurance
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue NW, 3207E WJC South
Washington, DC 20460
Office: 202-564-8176

From: Mirza, Sabah
Sent: Thursday, August 8, 2019 11:37 AM
To: Kelley, Rosemarie <Kelley.Rosemarie@epa.gov>; Koslow, Karin <Koslow.Karin@epa.gov>; Buterbaugh, Kristin <Buterbaugh.Kristin@epa.gov>; Sullivan, Greg <Sullivan.Greg@epa.gov>; Saenz, Diana <Saenz.Diana@epa.gov>; Miles, James <miles.james@epa.gov>; Garvey, Mark <Garvey.Mark@epa.gov>; Milton, Philip <Milton.Philip@epa.gov>; Brooks, Phillip <Brooks.Phillip@epa.gov>; Chapman, Apple <Chapman.Apple@epa.gov>; Fried, Gregory <Fried.Gregory@epa.gov>; Sullivan, Tim <Sullivan.Tim@epa.gov>; Pollins, Mark <Pollins.Mark@epa.gov>; Theis, Joseph <Theis.Joseph@epa.gov>; Denton, Loren <Denton.Loren@epa.gov>; Zimny, James <zimny.james@epa.gov>; Rae, Sarah <Rae.Sarah@epa.gov>; Porter, Amy <Porter.Amy@epa.gov>; Jonesi, Gary <Jonesi.Gary@epa.gov>
Cc: Bodine, Susan <bodine.susan@epa.gov>; Starfield, Lawrence <Starfield.Lawrence@epa.gov>; Johnson, Kathleen <Johnson.Kathleen@epa.gov>; Traylor, Patrick <traylor.patrick@epa.gov>; Shiffman, Cari <Shiffman.Cari@epa.gov>
Subject: RE: Follow-up items from OCE weekly 8/8/19

Hi all,

Here are the follow-up items from today's OCE meeting:

1.
2.
3.

Ex. 5 Attorney Client (AC)

4.
5.
~~~~~~~~~~~~~~~~~~~~~~

Thanks,
Sabah

~~~~~~~~~~~~~~~~~~~~~~

Sabah Mirza, Special Assistant
Office of Enforcement and Compliance Assurance
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue NW, 3207E WJC South
Washington, DC 20460
Office: 202-564-8176

From: Mirza, Sabah
Sent: Wednesday, July 31, 2019 1:45 PM
To: Kelley, Rosemarie <Kelley.Rosemarie@epa.gov>; Koslow, Karin <Koslow.Karin@epa.gov>; Buterbaugh, Kristin <Buterbaugh.Kristin@epa.gov>; Fogarty, Johnpc <Fogarty.Johnpc@epa.gov>; Pollins, Mark <Pollins.Mark@epa.gov>; Theis, Joseph <Theis.Joseph@epa.gov>; Bahk, Benjamin <Bahk.Benjamin@epa.gov>; Cherry, Andrew <Cherry.Andrew@epa.gov>
Cc: Bodine, Susan <bodine.susan@epa.gov>; Starfield, Lawrence <Starfield.Lawrence@epa.gov>; Johnson, Kathleen <Johnson.Kathleen@epa.gov>
Subject: Follow-up items from OCE weekly 7/31/19

Hi all,

Here are the follow-up items from today's OCE meeting:

Ex. 5 Attorney Client (AC)

Thanks,
Sabah

~~~~~~~~~~~~~~~~~~~~~~

Sabah Mirza, Special Assistant
Office of Enforcement and Compliance Assurance
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue NW, 3207E WJC South
Washington, DC 20460
Office: 202-564-8176

From: Mirza, Sabah
Sent: Thursday, July 25, 2019 5:03 PM
To: Kelley, Rosemarie <Kelley.Rosemarie@epa.gov>; Koslow, Karin <Koslow.Karin@epa.gov>; Fogarty, Johnpc <Fogarty.Johnpc@epa.gov>; Saenz, Diana <Saenz.Diana@epa.gov>; Buterbaugh, Kristin <Buterbaugh.Kristin@epa.gov>; Miles, James <miles.james@epa.gov>; Ziegel, Dean <Ziegel.Dean@epa.gov>
Cc: Bodine, Susan <bodine.susan@epa.gov>; Starfield, Lawrence <Starfield.Lawrence@epa.gov>; Johnson, Kathleen <Johnson.Kathleen@epa.gov>; Shiffman, Cari <Shiffman.Cari@epa.gov>; Traylor, Patrick <traylor.patrick@epa.gov>
Subject: Follow-up items from OCE weekly 7/25/19

Hi all,

Here are the follow-up items from the OCE meeting today:

Ex. 5 Attorney Client (AC)

Thanks,

Sabah

~~~~~~~~~~~~~~~~~~~~~~

Sabah Mirza, Special Assistant
Office of Enforcement and Compliance Assurance
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue NW, 3207E WJC South
Washington, DC 20460
Office: 202-564-8176

From: Mirza, Sabah
Sent: Thursday, July 11, 2019 3:56 PM
To: Kelley, Rosemarie <Kelley.Rosemarie@epa.gov>; Koslow, Karin <Koslow.Karin@epa.gov>; Fogarty, Johnpc <Fogarty.Johnpc@epa.gov>; Buterbaugh, Kristin <Buterbaugh.Kristin@epa.gov>; Bahk, Benjamin <Bahk.Benjamin@epa.gov>; Denton, Loren <Denton.Loren@epa.gov>; Cherry, Andrew <Cherry.Andrew@epa.gov>
Cc: Bodine, Susan <bodine.susan@epa.gov>; Starfield, Lawrence <Starfield.Lawrence@epa.gov>; Johnson, Kathleen <Johnson.Kathleen@epa.gov>; Shiffman, Cari <Shiffman.Cari@epa.gov>
Subject: Follow-up items from OEC weekly 7/11/19

Hi all,

Here are the follow-up items from the OCE meeting today:

Ex. 5 Attorney Client (AC)

Thanks,
Sabah

~~~~~~~~~~~~~~~~~~~~~~

Sabah Mirza, Special Assistant
Office of Enforcement and Compliance Assurance
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue NW, 3207E WJC South
Washington, DC 20460
Office: 202-564-8176

To: Hull, George[Hull.George@epa.gov]; Egan, Patrick[egan.patrick@epa.gov]
From: Starfield, Lawrence[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=8A89D6CD217D4254A5879ABECB3F314E-STARFIELD, LAWRENCE]
Sent: Fri 8/9/2019 2:31:28 PM (UTC)
Subject: FW: InsideEPA Response

George,

Ex. 5 AC/DP

Larry

This message is CONFIDENTIAL, and may contain legally privileged information. If you are not the intended recipient, or believe you received this communication in error, please delete it immediately, do not copy, and notify the sender. Thank you.
Begin forwarded message:

From: "Hull, George" <Hull.George@epa.gov>
Date: August 8, 2019 at 12:52:55 PM EDT
To: "Bodine, Susan" <bodine.susan@epa.gov>, "Starfield, Lawrence" <Starfield.Lawrence@epa.gov>, "Egan, Patrick" <egan.patrick@epa.gov>, "Traylor, Patrick" <traylor.patrick@epa.gov>
Cc: "Koslow, Karin" <Koslow.Karin@epa.gov>
Subject: RE: InsideEPA Response

Ex. 5 AC/DP

From: Bodine, Susan <bodine.susan@epa.gov>
Sent: Thursday, August 08, 2019 12:26 PM
To: Starfield, Lawrence <Starfield.Lawrence@epa.gov>; Egan, Patrick <egan.patrick@epa.gov>; Traylor, Patrick <traylor.patrick@epa.gov>
Cc: Hull, George <Hull.George@epa.gov>; Koslow, Karin <Koslow.Karin@epa.gov>
Subject: RE: InsideEPA Response

OK

From: Starfield, Lawrence <Starfield.Lawrence@epa.gov>
Sent: Thursday, August 8, 2019 12:22 PM
To: Bodine, Susan <bodine.susan@epa.gov>; Egan, Patrick <egan.patrick@epa.gov>; Traylor, Patrick <traylor.patrick@epa.gov>
Cc: Hull, George <Hull.George@epa.gov>; Koslow, Karin <Koslow.Karin@epa.gov>
Subject: RE: InsideEPA Response

Susan,

Ex. 5 AC/DP

Larry
This message is CONFIDENTIAL, and may contain legally privileged information. If you are not the intended recipient, or believe you received this communication in error, please delete it immediately, do not copy, and notify the sender. Thank you.

From: Bodine, Susan <bodine.susan@epa.gov>
Sent: Thursday, August 08, 2019 11:56 AM
To: Egan, Patrick <egan.patrick@epa.gov>; Starfield, Lawrence <Starfield.Lawrence@epa.gov>; Traylor, Patrick <traylor.patrick@epa.gov>
Cc: Hull, George <Hull.George@epa.gov>
Subject: RE: InsideEPA Response

My redraft. Any comments? Also needs coordination with DOJ.

Ex. 5 AC/DP

From: Egan, Patrick <egan.patrick@epa.gov>
Sent: Thursday, August 8, 2019 11:01 AM
To: Bodine, Susan <bodine.susan@epa.gov>; Starfield, Lawrence <Starfield.Lawrence@epa.gov>; Traylor, Patrick <traylor.patrick@epa.gov>
Cc: Hull, George <Hull.George@epa.gov>
Subject: InsideEPA Response

Susan, Larry and Patrick,

Here is a proposed response to InsideEPA's inquiry. Let me know if you have any comments.

Thanks,
Pat

Ex. 5 AC/DP

Patrick J. Egan, M.P.A.
Deputy Director of Communications
Office of Enforcement and Compliance Assurance
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue NW (MC: 2201A)
Washington, DC 20460
Office: 202-564-4059 | Cell: 202-440-3883

To: Regional Counsels and Deputies[Regional_Counsels_and_Deputies@epa.gov]; ECAD Directors and Deputies[ECAD_Directors_and_Deputies@epa.gov]
Cc: Koslow, Karin[Koslow.Karin@epa.gov]; Kelley, Rosemarie[Kelley.Rosemarie@epa.gov]; Porter, Amy[Porter.Amy@epa.gov]
From: Starfield, Lawrence[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=8A89D6CD217D4254A5879ABECB3F314E-STARFIELD, LAWRENCE]
Sent: Fri 8/9/2019 2:15:57 PM (UTC)
Subject: FW: DOJ Begins Rejecting SEPs In Municipal Settlements, Undercutting Policy

RC and ECAD colleagues:

I wanted to make you aware of this story on SEPs from InsideEPA, as you may get similar inquiries from outside parties or the press. FYI, our response to InsideEPA was the following:

> EPA has not changed its 2015 policy regarding supplemental environmental projects (SEPs) in settlement agreements. A SEP is a beneficial environmental project or activity to which a party agrees that goes beyond what could legally be required in order for the party to return to compliance. On November 7, 2018, former Attorney General Jeff Sessions issued a Department of Justice (DOJ) policy entitled *Principles and Procedures for Civil Consent Decrees and Settlement Agreements with State and Local Governmental Entities* – see https://www.justice.gov/opa/pr/justice-department-releases-memorandum-litigation-guidelines-civil-consent-decrees-and. As a policy matter, DOJ requires that judicial settlements with a state or local entity that include SEPs must first be reviewed and approved by the Associate Attorney General.

Larry

INSIDEEPA.COM
an online news service from the publishers of Inside EPA

DOJ Begins Rejecting SEPs In Municipal Settlements, Undercutting Policy

August 08, 2019

AUSTIN, TX -- The Department of Justice (DOJ) is rejecting supplemental environmental projects (SEPs) in settlements it is negotiating with local governmental agencies, a move that appears to undercut department policy that says it will approve the projects as part of deals provided they comply with EPA's SEP policy, attorneys say.

The rejections have begun being communicated over the past month, according to one industry attorney familiar with negotiations in several clean water settlements between DOJ and local governments, coming after years of negotiations where DOJ officials indicated the projects were likely to be approved.

A second source, industry attorney Nathan Vassar, told an Aug. 1 session of the Texas Environmental Superconference here that if attorneys have a SEP to propose as part of a federal settlement, "it will take some real convincing because apparently the ongoing discussions -- and this is more at DOJ than it is at EPA -- are that, 'We're not going to allow SEPs as part of the enforcement protocol.'"

Vassar said this marks a change from past practice, when Trump officials told attorneys representing municipalities that their broader efforts to limit the use of SEPs would not generally apply in settlements involving local government entities. "We were told on several occasions, 'On municipal enforcement, if you like your SEP, you can keep your SEP'," he said.

However, that is no longer the case, Vassar said. "We learned just this week, it may be news to some . . . A SEP as a part of an enforcement mechanism is not going to be pursued as a part of this administration."

A DOJ spokesman denies there has been a policy change, saying all department guidance is being followed and declining to comment on whether new guidance has been issued.

DOJ's "Environment and Natural Resources Division [(ENRD)] is following all current [DOJ] memoranda, including those issued by the Division itself and by the Attorney General," the spokesman says.

The spokesman declined to clarify whether that means SEPs can be approved or if there is a new document prohibiting them.

An EPA spokesman says the agency has not changed its 2015 policy regarding use of SEPs in settlement agreements. But the spokesman noted that former Attorney General Jeff Sessions, in a 2018 policy, had required that "judicial settlements with a state or local entity that include SEPs must first be reviewed and approved by the Associate Attorney General."

The new prohibition on SEPs renews focus on the issue, which has raised concerns in the past. The concern stemmed initially from Sessions' June 2017 memo banning settlements that included payments to third parties. Sessions opposed such payments because the parties were "neither victims nor parties to the lawsuits."

Some GOP lawmakers also complained that such settlements amount to "sweetheart deals" for environmental groups that benefitted from SEPs.

But many attorneys warned at the time that the prohibition would drastically impair their ability to settle EPA-related cases, and they strongly defended SEPs as providing a major incentive for environmental settlements with local both governments and private industry.

For example, some municipal officials were concerned that any limitation on the use of SEPs would hamper their efforts to expand the use of SEPs to offset stipulated penalties.

EPA Policy

After the uproar, DOJ's then-acting ENRD chief Jeff Woods in a January 2018 memo clarified exceptions to the payment ban, including for projects that comply with EPA's 2015 SEP policy.

Then, Sessions in a November 2018 policy wrote that settlements with municipal entities that included SEPs had to win approval from the associate attorney general for ENRD.

While the policy barring payments to third parties has been implemented, it faces some legal uncertainty as a federal court in Washington, D.C., has so far declined a DOJ request to drop a SEP from an already approved settlement with Harley Davidson -- more than two years after the request was first made.

Now, industry sources say DOJ is now rejecting approvals of municipal SEPs, raising questions about how to proceed.

"What we are starting to see happen is where we proposed SEPs we thought would be OK, and that everyone indicated were OK, but of course did not have final approval, are now getting rejected," the first industry source says.

DOJ is communicating to these attorneys that the settlements will not be approved if they contain the SEPs, but the source says it is unclear who made the change and why. No one at DOJ "has cited new documents to us," the source says.

It is also unclear whether any of the settling parties will seek to challenge the rejection of the SEPs. "We have to debate, 'Ok do you challenge it and go to higher levels to try to convince [DOJ] why you should be able to do this, or do you just say, 'OK, we're going to put more money in the penalty?'"

These discussions are "just happening now . . . we are engaged in thinking about that right now." The answer will be based on how badly the setting party wants to do the SEP "or whether it can get the case done, pay more money and move on," the source adds. "We have to think about each case and whether it is worth having that fight."

This source has "not had any direct discussions with someone at DOJ or EPA other than being told they are not accepting that SEP."

The attorney notes that including SEPs in local government settlements has "been very valuable" and "helped us get to agreements in situations where municipalities feel very strongly that if they pay money it should go toward the community, and hopefully go to improving water quality for the community, and not get sent to D.C. to go to some federal agency."

City councils are more apt to approve settlements if they include incentives such as SEPs that require tree planting or repairing a sewer line, the source explains. However, it is also unclear, the source notes, whether dropping a SEP at this stage will tank the overarching settlement and result in litigation.

The industry source says when the policies first came out, it appeared they would not restrict SEPs by municipalities unless the governments were paying contractors to do the work, rather than having their own employees do so.

Now, the source says, even if a city employee were to plant trees on private property as part of a SEP, that appears to be prohibited as well, because DOJ "would say you are providing value to that property owner, and that is something you cannot do."

The source adds that if all SEPs are effectively banned, that would "be really unfortunate" because "they helped make it easier to reach agreements and provided real environmental benefits to communities."

The source says it is difficult to identify the universe of threatened SEPs because the Trump DOJ has not initiated many cases, so a lot of the cases being negotiated were started under the Obama administration, continued into Trump "and now we're being told we can't do it."

The source says the policy is less problematic if "it is only the policy for the next year and a half." But if it "lasts into another administration," then it would "affect a lot of cases" and have a "substantial" impact on settlements.

The last case this source was involved with that had a SEP -- which required a city to improve a stream -- was approved by a court in early 2018. -- *Dawn Reeves* (dreeves@iwpnews.com) & *Lee Logan* (llogan@iwpnews.com)

Related News | Litigation | Transition 2016-2017 |
220946

To: Cozad, David[Cozad.David@epa.gov]; Koslow, Karin[Koslow.Karin@epa.gov]; Makepeace, Caroline[Makepeace.Caroline@epa.gov]; Porter, Amy[Porter.Amy@epa.gov]; Kelley, Rosemarie[Kelley.Rosemarie@epa.gov]
From: Starfield, Lawrence[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=8A89D6CD217D4254A5879ABECB3F314E-STARFIELD, LAWRENCE]
Sent: Fri 8/9/2019 2:05:59 PM (UTC)
Subject: RE: DOJ Begins Rejecting SEPs In Municipal Settlements, Undercutting Policy

Ex. 5 AC/DP

Larry
This message is CONFIDENTIAL, and may contain legally privileged information. If you are not the intended recipient, or believe you received this communication in error, please delete it immediately, do not copy, and notify the sender. Thank you.

From: Cozad, David <Cozad.David@epa.gov>
Sent: Friday, August 09, 2019 10:03 AM
To: Starfield, Lawrence <Starfield.Lawrence@epa.gov>; Koslow, Karin <Koslow.Karin@epa.gov>; Makepeace, Caroline <Makepeace.Caroline@epa.gov>; Porter, Amy <Porter.Amy@epa.gov>; Kelley, Rosemarie <Kelley.Rosemarie@epa.gov>
Subject: RE: DOJ Begins Rejecting SEPs In Municipal Settlements, Undercutting Policy

Thanks Larry.

SEPS generally, and this topic specifically, probably a good topic to discuss at the September in-person meeting.

Ex. 5 AC/DP

Dave

From: Starfield, Lawrence <Starfield.Lawrence@epa.gov>
Sent: Friday, August 09, 2019 8:40 AM
To: Cozad, David <Cozad.David@epa.gov>; Koslow, Karin <Koslow.Karin@epa.gov>; Makepeace, Caroline <Makepeace.Caroline@epa.gov>; Porter, Amy <Porter.Amy@epa.gov>; Kelley, Rosemarie <Kelley.Rosemarie@epa.gov>
Subject: Fwd: DOJ Begins Rejecting SEPs In Municipal Settlements, Undercutting Policy

In case you couldn't read the article (I couldn't access it on my phone).

Sent from my iPhone
Begin forwarded message:

> **From:** "Egan, Patrick" <egan.patrick@epa.gov>
> **Date:** August 9, 2019 at 9:10:37 AM EDT
> **To:** "Starfield, Lawrence" <Starfield.Lawrence@epa.gov>
> **Subject: RE: DOJ Begins Rejecting SEPs In Municipal Settlements, Undercutting Policy**
>
> Okay. Sorry about that. Here you go. Hopefully this comes through.

INSIDEEPA.COM
an online news service from the publishers of Inside EPA

DOJ Begins Rejecting SEPs In Municipal Settlements, Undercutting Policy

August 08, 2019

AUSTIN, TX -- The Department of Justice (DOJ) is rejecting supplemental environmental projects (SEPs) in settlements it is negotiating with local governmental agencies, a move that appears to undercut department policy that says it will approve the projects as part of deals provided they comply with EPA's SEP policy, attorneys say.

The rejections have begun being communicated over the past month, according to one industry attorney familiar with negotiations in several clean water settlements between DOJ and local governments, coming after years of negotiations where DOJ officials indicated the projects were likely to be approved.

A second source, industry attorney Nathan Vassar, told an Aug. 1 session of the Texas Environmental Superconference here that if attorneys have a SEP to propose as part of a federal settlement, "it will take some real convincing because apparently the ongoing discussions -- and this is more at DOJ than it is at EPA -- are that, 'We're not going to allow SEPs as part of the enforcement protocol.'"

Vassar said this marks a change from past practice, when Trump officials told attorneys representing municipalities that their broader efforts to limit the use of SEPs would not generally apply in settlements involving local government entities. "We were told on several occasions, 'On municipal enforcement, if you like your SEP, you can keep your SEP'," he said.

However, that is no longer the case, Vassar said. "We learned just this week, it may be news to some . . . A SEP as a part of an enforcement mechanism is not going to be pursued as a part of this administration."

A DOJ spokesman denies there has been a policy change, saying all department guidance is being followed and declining to comment on whether new guidance has been issued.

DOJ's "Environment and Natural Resources Division [(ENRD)] is following all current [DOJ] memoranda, including those issued by the Division itself and by the Attorney General," the spokesman says.

The spokesman declined to clarify whether that means SEPs can be approved or if there is a new document prohibiting them.

An EPA spokesman says the agency has not changed its 2015 policy regarding use of SEPs in settlement agreements. But the spokesman noted that former Attorney General Jeff Sessions, in a 2018 policy, had required that "judicial settlements with a state or local entity that include SEPs must first be reviewed and approved by the Associate Attorney General."

The new prohibition on SEPs renews focus on the issue, which has raised concerns in the past. The concern stemmed initially from Sessions' June 2017 memo banning settlements that included payments to third parties. Sessions opposed such payments because the parties were "neither victims nor parties to the lawsuits."

Some GOP lawmakers also complained that such settlements amount to "sweetheart deals" for environmental groups that benefitted from SEPs.

But many attorneys warned at the time that the prohibition would drastically impair their ability to settle EPA-related cases, and they strongly defended SEPs as providing a major incentive for environmental settlements with local both governments and private industry.

For example, some municipal officials were concerned that any limitation on the use of SEPs would hamper their efforts to expand the use of SEPs to offset stipulated penalties.

EPA Policy

After the uproar, DOJ's then-acting ENRD chief Jeff Woods in a January 2018 memo clarified exceptions to the payment ban, including for projects that comply with EPA's 2015 SEP policy.

Then, Sessions in a November 2018 policy wrote that settlements with municipal entities that included SEPs had to win approval from the associate attorney general for ENRD.

While the policy barring payments to third parties has been implemented, it faces some legal uncertainty as a federal court in Washington, D.C., has so far declined a DOJ request to drop a SEP from an already approved settlement with Harley Davidson -- more than two years after the request was first made.

Now, industry sources say DOJ is now rejecting approvals of municipal SEPs, raising questions about how to proceed.

“What we are starting to see happen is where we proposed SEPs we thought would be OK, and that everyone indicated were OK, but of course did not have final approval, are now getting rejected,” the first industry source says.

DOJ is communicating to these attorneys that the settlements will not be approved if they contain the SEPs, but the source says it is unclear who made the change and why. No one at DOJ “has cited new documents to us,” the source says.

It is also unclear whether any of the settling parties will seek to challenge the rejection of the SEPs. “We have to debate, ‘Ok do you challenge it and go to higher levels to try to convince [DOJ] why you should be able to do this, or do you just say, ‘OK, we’re going to put more money in the penalty?’”

These discussions are “just happening now . . . we are engaged in thinking about that right now.” The answer will be based on how badly the setting party wants to do the SEP “or whether it can get the case done, pay more money and move on,” the source adds. “We have to think about each case and whether it is worth having that fight.”

This source has “not had any direct discussions with someone at DOJ or EPA other than being told they are not accepting that SEP.”

The attorney notes that including SEPs in local government settlements has “been very valuable” and “helped us get to agreements in situations where municipalities feel very strongly that if they pay money it should go toward the community, and hopefully go to improving water quality for the community, and not get sent to D.C. to go to some federal agency.”

City councils are more apt to approve settlements if they include incentives such as SEPs that require tree planting or repairing a sewer line, the source explains. However, it is also unclear, the source notes, whether dropping a SEP at this stage will tank the overarching settlement and result in litigation.

The industry source says when the policies first came out, it appeared they would not restrict SEPs by municipalities unless the governments were paying contractors to do the work, rather than having their own employees do so.

Now, the source says, even if a city employee were to plant trees on private property as part of a SEP, that appears to be prohibited as well, because DOJ “would say you are providing value to that property owner, and that is something you cannot do."

The source adds that if all SEPs are effectively banned, that would “be really unfortunate” because “they helped make it easier to reach agreements and provided real environmental benefits to communities.”

The source says it is difficult to identify the universe of threatened SEPs because the Trump DOJ has not initiated many cases, so a lot of the cases being negotiated were started under the Obama administration, continued into Trump “and now we’re being told we can’t do it.”

The source says the policy is less problematic if “it is only the policy for the next year and a half.” But if it “lasts into another administration,” then it would “affect a lot of cases” and have a “substantial” impact on settlements.

The last case this source was involved with that had a SEP -- which required a city to improve a stream -- was approved by a court in early 2018. -- *Dawn Reeves* (dreeves@iwpnews.com) & *Lee Logan* (llogan@iwpnews.com)

Related News | Litigation | Transition 2016-2017 |

220946

Patrick J. Egan, M.P.A.
Deputy Director of Communications
Office of Enforcement and Compliance Assurance
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue NW (MC: 2201A)
Washington, DC 20460
Office: 202-564-4059 | Cell: 202-440-3883

From: Starfield, Lawrence <Starfield.Lawrence@epa.gov>
Sent: Friday, August 9, 2019 9:03 AM
To: Egan, Patrick <egan.patrick@epa.gov>
Subject: Re: DOJ Begins Rejecting SEPs In Municipal Settlements, Undercutting Policy

This requires a log in. Can you send the full article?

Sent from my iPhone
On Aug 9, 2019, at 8:58 AM, Egan, Patrick <egan.patrick@epa.gov> wrote:

> Here you go.
>
> https://insideepa.com/weekly-focus/doj-begins-rejecting-seps-municipal-settlements-undercutting-policy

Patrick J. Egan, M.P.A.
Deputy Director of Communications
Office of Enforcement and Compliance Assurance
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue NW (MC: 2201A)
Washington, DC 20460
Office: 202-564-4059 | Cell: 202-440-3883

From: Starfield, Lawrence <Starfield.Lawrence@epa.gov>
Sent: Friday, August 9, 2019 8:54 AM
To: Hull, George <Hull.George@epa.gov>; Egan, Patrick <egan.patrick@epa.gov>
Subject: Fwd: DOJ Begins Rejecting SEPs In Municipal Settlements, Undercutting Policy

Can you send me the full article?

Sent from my iPhone
Begin forwarded message:

> **From:** "Traylor, Patrick" <traylor.patrick@epa.gov>
> **Date:** August 8, 2019 at 7:02:22 PM EDT
> **To:** "Bodine, Susan" <bodine.susan@epa.gov>, "Starfield, Lawrence" <Starfield.Lawrence@epa.gov>
> **Cc:** "Hull, George" <Hull.George@epa.gov>
> **Subject: Fwd: DOJ Begins Rejecting SEPs In Municipal Settlements, Undercutting Policy**

Patrick Traylor
Deputy Assistant Administrator
Office of Enforcement and Compliance Assurance
U.S. Environmental Protection Agency
(202) 564-5238 (office)
(202) 809-8796 (cell)
Begin forwarded message:

From: "InsideEPA.com" <insideepa-alerts@iwpnews.com>
Date: August 8, 2019 at 6:18:10 PM EDT
To: traylor.patrick@epa.gov
Subject: DOJ Begins Rejecting SEPs In Municipal Settlements, Undercutting Policy
Reply-To: insideepa-alerts@iwpnews.com

August 8, 2019

THE WEEKLY FOCUS

An in-depth look from our editors at a specific issue facing the Agency, pub weekly.

DOJ Begins Rejecting SEPs In Municipal Settlements, Undercu Policy

AUSTIN, TX -- The Department of Justice (DOJ) is rejecting supplemental environmental projects (SEPs) in settlements it is negotiating with local governmental agencies, a move that appears to undercut department polic says it will approve the projects as part of deals provided they comply with SEP policy, attorneys say.

READ MORE →

EDITORIAL CONTACT	CUSTOMER SERVICE
703-562-8763	703-416-8505
E-MAIL →	E-MAIL →

-

Site Licenses Available

Want to share access to InsideEPA.com with your colleagues? We have economical site license p available to fit any size organization, from a few people at one location to company-wide access. F information on how you can get greater access to InsideEPA.com for your office, contact our Onlin Customer Service department at 703-416-8505 or iepa@iwpnews.com.

Please do not respond to this e-mail, as it was sent from an unmonitored mailbox. If you have a cu service inquiry, please contact us at iepa@iwpnews.com. If you no longer wish to receive these me you can change your e-mail settings on InsideEPA.com (you may need to log in).

Mailing address: 1919 South Eads Street, Suite 100, Arlington VA 22202

Telephone: 703-416-8500 or 1-800-424-9068

Copyright © 2019 Inside Washington Publishers. All rights reserved About Us | Privacy Policy

<DOJ Begins Rejecting SEPs In Municipal Settlements, Undercutting Policy Inside.pdf>

To: Egan, Patrick[egan.patrick@epa.gov]
From: Starfield, Lawrence[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=8A89D6CD217D4254A5879ABECB3F314E-STARFIELD, LAWRENCE]
Sent: Fri 8/9/2019 2:03:47 PM (UTC)
Subject: RE: DOJ Begins Rejecting SEPs In Municipal Settlements, Undercutting Policy

Yes, thanks. Got it. I may be able to access the article on my work computer, but not on my phone.

Larry

From: Egan, Patrick <egan.patrick@epa.gov>
Sent: Friday, August 09, 2019 9:11 AM
To: Starfield, Lawrence <Starfield.Lawrence@epa.gov>
Subject: RE: DOJ Begins Rejecting SEPs In Municipal Settlements, Undercutting Policy

Okay. Sorry about that. Here you go. Hopefully this comes through.

INSIDEEPA.COM
an online news service from the publishers of Inside EPA

DOJ Begins Rejecting SEPs In Municipal Settlements, Undercutting Policy

August 08, 2019

AUSTIN, TX -- The Department of Justice (DOJ) is rejecting supplemental environmental projects (SEPs) in settlements it is negotiating with local governmental agencies, a move that appears to undercut department policy that says it will approve the projects as part of deals provided they comply with EPA's SEP policy, attorneys say.

The rejections have begun being communicated over the past month, according to one industry attorney familiar with negotiations in several clean water settlements between DOJ and local governments, coming after years of negotiations where DOJ officials indicated the projects were likely to be approved.

A second source, industry attorney Nathan Vassar, told an Aug. 1 session of the Texas Environmental Superconference here that if attorneys have a SEP to propose as part of a federal settlement, "it will take some real convincing because apparently the ongoing discussions -- and this is more at DOJ than it is at EPA -- are that, 'We're not going to allow SEPs as part of the enforcement protocol.'"

Vassar said this marks a change from past practice, when Trump officials told attorneys representing municipalities that their broader efforts to limit the use of SEPs would not generally apply in settlements involving local government entities. "We were told on several occasions, 'On municipal enforcement, if you like your SEP, you can keep your SEP'," he said.

However, that is no longer the case, Vassar said. "We learned just this week, it may be news to some . . . A SEP as a part of an enforcement mechanism is not going to be pursued as a part of this administration."

A DOJ spokesman denies there has been a policy change, saying all department guidance is being followed and declining to comment on whether new guidance has been issued.

DOJ's "Environment and Natural Resources Division [(ENRD)] is following all current [DOJ] memoranda, including those issued by the Division itself and by the Attorney General," the spokesman says.

The spokesman declined to clarify whether that means SEPs can be approved or if there is a new document prohibiting them.

An EPA spokesman says the agency has not changed its 2015 policy regarding use of SEPs in settlement agreements. But the spokesman noted that former Attorney General Jeff Sessions, in a 2018 policy, had required that "judicial settlements with a state or local entity that include SEPs must first be reviewed and approved by the Associate Attorney General."

The new prohibition on SEPs renews focus on the issue, which has raised concerns in the past. The concern stemmed initially from Sessions' June 2017 memo banning settlements that included payments to third parties. Sessions opposed such payments because the parties were "neither victims nor parties to the lawsuits."

Some GOP lawmakers also complained that such settlements amount to "sweetheart deals" for environmental groups that benefitted from SEPs.

But many attorneys warned at the time that the prohibition would drastically impair their ability to settle EPA-related cases, and they strongly defended SEPs as providing a major incentive for environmental settlements with local both governments and private industry.

For example, some municipal officials were concerned that any limitation on the use of SEPs would hamper their efforts to expand the use of SEPs to offset stipulated penalties.

EPA Policy

After the uproar, DOJ's then-acting ENRD chief Jeff Woods in a January 2018 memo clarified exceptions to the payment ban, including for projects that comply with EPA's 2015 SEP policy.

Then, Sessions in a November 2018 policy wrote that settlements with municipal entities that included SEPs had to win approval from the associate attorney general for ENRD.

While the policy barring payments to third parties has been implemented, it faces some legal uncertainty as a federal court in Washington, D.C., has so far declined a DOJ request to drop a SEP from an already approved settlement with Harley Davidson -- more than two years after the request was first made.

Now, industry sources say DOJ is now rejecting approvals of municipal SEPs, raising questions about how to proceed.

"What we are starting to see happen is where we proposed SEPs we thought would be OK, and that everyone indicated were OK, but of course did not have final approval, are now getting rejected," the first industry source says.

DOJ is communicating to these attorneys that the settlements will not be approved if they contain the SEPs, but the source says it is unclear who made the change and why. No one at DOJ "has cited new documents to us," the source says.

It is also unclear whether any of the settling parties will seek to challenge the rejection of the SEPs. "We have to debate, 'Ok do you challenge it and go to higher levels to try to convince [DOJ] why you should be able to do this, or do you just say, 'OK, we're going to put more money in the penalty?'"

These discussions are "just happening now . . . we are engaged in thinking about that right now." The answer will be based on how badly the setting party wants to do the SEP "or whether it can get the case done, pay more money and move on," the source adds. "We have to think about each case and whether it is worth having that fight."

This source has "not had any direct discussions with someone at DOJ or EPA other than being told they are not accepting that SEP."

The attorney notes that including SEPs in local government settlements has "been very valuable" and "helped us get to agreements in situations where municipalities feel very strongly that if they pay money it should go toward the community, and hopefully go to improving water quality for the community, and not get sent to D.C. to go to some federal agency."

City councils are more apt to approve settlements if they include incentives such as SEPs that require tree planting or repairing a sewer line, the source explains. However, it is also unclear, the source notes, whether dropping a SEP at this stage will tank the overarching settlement and result in litigation.

The industry source says when the policies first came out, it appeared they would not restrict SEPs by municipalities unless the governments were paying contractors to do the work, rather than having their own employees do so.

Now, the source says, even if a city employee were to plant trees on private property as part of a SEP, that appears to be prohibited as well, because DOJ "would say you are providing value to that property owner, and that is something you cannot do."

The source adds that if all SEPs are effectively banned, that would "be really unfortunate" because "they helped make it easier to reach agreements and provided real environmental benefits to communities."

The source says it is difficult to identify the universe of threatened SEPs because the Trump DOJ has not initiated many cases, so a lot of the cases being negotiated were started under the Obama administration, continued into Trump "and now we're being told we can't do it."

The source says the policy is less problematic if "it is only the policy for the next year and a half." But if it "lasts into another administration," then it would "affect a lot of cases" and have a "substantial" impact on settlements.

The last case this source was involved with that had a SEP -- which required a city to improve a stream -- was approved by a court in early 2018. -- *Dawn Reeves* (dreeves@iwpnews.com) & *Lee Logan* (llogan@iwpnews.com)

Related News | Litigation | Transition 2016-2017 |

220946

Patrick J. Egan, M.P.A.
Deputy Director of Communications
Office of Enforcement and Compliance Assurance
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue NW (MC: 2201A)
Washington, DC 20460
Office: 202-564-4059 | Cell: 202-440-3883

From: Starfield, Lawrence <Starfield.Lawrence@epa.gov>
Sent: Friday, August 9, 2019 9:03 AM
To: Egan, Patrick <egan.patrick@epa.gov>
Subject: Re: DOJ Begins Rejecting SEPs In Municipal Settlements, Undercutting Policy

This requires a log in. Can you send the full article?

Sent from my iPhone
On Aug 9, 2019, at 8:58 AM, Egan, Patrick <egan.patrick@epa.gov> wrote:

> Here you go.
>
> https://insideepa.com/weekly-focus/doj-begins-rejecting-seps-municipal-settlements-undercutting-policy
>
> Patrick J. Egan, M.P.A.
> Deputy Director of Communications
> Office of Enforcement and Compliance Assurance

U.S. Environmental Protection Agency
1200 Pennsylvania Avenue NW (MC: 2201A)
Washington, DC 20460
Office: 202-564-4059 | Cell: 202-440-3883

From: Starfield, Lawrence <Starfield.Lawrence@epa.gov>
Sent: Friday, August 9, 2019 8:54 AM
To: Hull, George <Hull.George@epa.gov>; Egan, Patrick <egan.patrick@epa.gov>
Subject: Fwd: DOJ Begins Rejecting SEPs In Municipal Settlements, Undercutting Policy

Can you send me the full article?

Sent from my iPhone
Begin forwarded message:

> **From:** "Traylor, Patrick" <traylor.patrick@epa.gov>
> **Date:** August 8, 2019 at 7:02:22 PM EDT
> **To:** "Bodine, Susan" <bodine.susan@epa.gov>, "Starfield, Lawrence" <Starfield.Lawrence@epa.gov>
> **Cc:** "Hull, George" <Hull.George@epa.gov>
> **Subject: Fwd: DOJ Begins Rejecting SEPs In Municipal Settlements, Undercutting Policy**

> **Patrick Traylor**
> Deputy Assistant Administrator
> Office of Enforcement and Compliance Assurance
> U.S. Environmental Protection Agency
> (202) 564-5238 (office)
> (202) 809-8796 (cell)
> Begin forwarded message:

> > **From:** "InsideEPA.com" <insideepa-alerts@iwpnews.com>
> > **Date:** August 8, 2019 at 6:18:10 PM EDT
> > **To:** traylor.patrick@epa.gov
> > **Subject: DOJ Begins Rejecting SEPs In Municipal Settlements, Undercutting Policy**
> > **Reply-To:** insideepa-alerts@iwpnews.com

August 8, 2019

THE WEEKLY FOCUS

An in-depth look from our editors at a specific issue facing the Agency, published weekly.

DOJ Begins Rejecting SEPs In Municipal Settlements, Undercutting Policy

AUSTIN, TX -- The Department of Justice (DOJ) is rejecting supplemental environmental projects (SEPs) in settlements it is negotiating with local governmental agencies, a move that appears to undercut department policy that says it will approve the projects as part of deals provided they comply with EPA's SEP policy, attorneys say.

READ MORE →

EDITORIAL CONTACT	CUSTOMER SERVICE
703-562-8763	703-416-8505
E-MAIL →	E-MAIL →

Site Licenses Available

Want to share access to InsideEPA.com with your colleagues? We have economical site license packages available to fit any size organization, from a few people at one location to company-wide access. For more information on how you can get greater access to InsideEPA.com for your office, contact our Online Customer Service department at 703-416-8505 or iepa@iwpnews.com.

Please do not respond to this e-mail, as it was sent from an unmonitored mailbox. If you have a customer service inquiry, please contact us at iepa@iwpnews.com. If you no longer wish to receive these messages you can change your e-mail settings on InsideEPA.com (you may need to log in).

Mailing address: 1919 South Eads Street, Suite 100, Arlington VA 22202

Telephone: 703-416-8500 or 1-800-424-9068

Copyright © 2019 Inside Washington Publishers. All rights reserved About Us | Privacy Policy

<DOJ Begins Rejecting SEPs In Municipal Settlements, Undercutting Policy Inside.pdf>

To: Cozad, David[Cozad.David@epa.gov]; Koslow, Karin[Koslow.Karin@epa.gov]; Porter, Amy[Porter.Amy@epa.gov]; Kelley, Rosemarie[Kelley.Rosemarie@epa.gov]; Makepeace, Caroline[Makepeace.Caroline@epa.gov]
From: Starfield, Lawrence[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=8A89D6CD217D4254A5879ABECB3F314E-STARFIELD, LAWRENCE]
Sent: Fri 8/9/2019 1:01:11 PM (UTC)
Subject: Fwd: DOJ Begins Rejecting SEPs In Municipal Settlements, Undercutting Policy
DOJ Begins Rejecting SEPs In Municipal Settlements, Undercutting Policy_Inside.pdf
ATT00001.htm

Full version.

Sent from my iPhone

Begin forwarded message:

From: "Egan, Patrick" <egan.patrick@epa.gov>
Date: August 9, 2019 at 8:58:21 AM EDT
To: "Starfield, Lawrence" <Starfield.Lawrence@epa.gov>, "Hull, George" <Hull.George@epa.gov>
Subject: RE: DOJ Begins Rejecting SEPs In Municipal Settlements, Undercutting Policy

Here you go.

https://insideepa.com/weekly-focus/doj-begins-rejecting-seps-municipal-settlements-undercutting-policy

Patrick J. Egan, M.P.A.
Deputy Director of Communications
Office of Enforcement and Compliance Assurance
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue NW (MC: 2201A)
Washington, DC 20460
Office: 202-564-4059 | Cell: 202-440-3883

From: Starfield, Lawrence <Starfield.Lawrence@epa.gov>
Sent: Friday, August 9, 2019 8:54 AM
To: Hull, George <Hull.George@epa.gov>; Egan, Patrick <egan.patrick@epa.gov>
Subject: Fwd: DOJ Begins Rejecting SEPs In Municipal Settlements, Undercutting Policy

Can you send me the full article?

Sent from my iPhone
Begin forwarded message:

From: "Traylor, Patrick" <traylor.patrick@epa.gov>
Date: August 8, 2019 at 7:02:22 PM EDT
To: "Bodine, Susan" <bodine.susan@epa.gov>, "Starfield, Lawrence" <Starfield.Lawrence@epa.gov>
Cc: "Hull, George" <Hull.George@epa.gov>
Subject: Fwd: DOJ Begins Rejecting SEPs In Municipal Settlements, Undercutting Policy

Patrick Traylor
Deputy Assistant Administrator

Office of Enforcement and Compliance Assurance
U.S. Environmental Protection Agency
(202) 564-5238 (office)
(202) 809-8796 (cell)
Begin forwarded message:

From: "InsideEPA.com" <insideepa-alerts@iwpnews.com>
Date: August 8, 2019 at 6:18:10 PM EDT
To: traylor.patrick@epa.gov
Subject: DOJ Begins Rejecting SEPs In Municipal Settlements, Undercutting Policy
Reply-To: insideepa-alerts@iwpnews.com

August 8, 2019

THE WEEKLY FOCUS

An in-depth look from our editors at a specific issue facing the Agency, published weekly.

DOJ Begins Rejecting SEPs In Municipal Settlements, Undercutting Policy

AUSTIN, TX -- The Department of Justice (DOJ) is rejecting supplemental environmental projects (SEPs) in settlements it is negotiating with local governmental agencies, a move that appears to undercut department policy that says it will approve the projects as part of deals provided they comply with EPA's SEP policy, attorneys say.

READ MORE →

EDITORIAL CONTACT	CUSTOMER SERVICE
703-562-8763	703-416-8505
E-MAIL →	E-MAIL →

-

Site Licenses Available

Want to share access to InsideEPA.com with your colleagues? We have economical site license packages available to fit any size organization, from a few people at one location to company-wide access. For more information on how you can get greater access to InsideEPA.com for your office, contact our Online Customer Service department at 703-416-8505 or iepa@iwpnews.com.

Please do not respond to this e-mail, as it was sent from an unmonitored mailbox. If you have a customer service inquiry, please contact us at iepa@iwpnews.com. If you no longer wish to receive these messages you can change your e-mail settings on InsideEPA.com (you may need to log in).

Mailing address: 1919 South Eads Street, Suite 100, Arlington VA 22202

Telephone: 703-416-8500 or 1-800-424-9068

Copyright © 2019 Inside Washington Publishers. All rights reserved About Us | Privacy Policy

To: Cozad, David[Cozad.David@epa.gov]; Koslow, Karin[Koslow.Karin@epa.gov]; Kelley, Rosemarie[Kelley.Rosemarie@epa.gov]; Porter, Amy[Porter.Amy@epa.gov]; Makepeace, Caroline[Makepeace.Caroline@epa.gov]
From: Starfield, Lawrence[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=8A89D6CD217D4254A5879ABECB3F314E-STARFIELD, LAWRENCE]
Sent: Fri 8/9/2019 12:58:20 PM (UTC)
Subject: Fwd: InsideEPA Response - needs additional edits

Here is the back and forth on a public statement about DOJ's position re: SEPs. The "final" version seems like something we could safely share.
There may be more insight after Susan's discussion today with Jeff Clark.

Also, the Inside EPA article ran today. I'll forward it.

Larry

Sent from my iPhone

Begin forwarded message:

From: "Traylor, Patrick" <traylor.patrick@epa.gov>
Date: August 8, 2019 at 1:54:07 PM EDT
To: "Koslow, Karin" <Koslow.Karin@epa.gov>, "Hull, George" <Hull.George@epa.gov>, "Bodine, Susan" <bodine.susan@epa.gov>, "Starfield, Lawrence" <Starfield.Lawrence@epa.gov>, "Egan, Patrick" <egan.patrick@epa.gov>, "Makepeace, Caroline" <Makepeace.Caroline@epa.gov>
Cc: "Porter, Amy" <Porter.Amy@epa.gov>
Subject: RE: InsideEPA Response - needs additional edits

Final version that reconciles OCE and DOJ comments. We need to go with this or lose our ability to influence the article.

Ex. 5 AC/DP

Patrick Traylor
Deputy Assistant Administrator
Office of Enforcement and Compliance Assurance
U.S. Environmental Protection Agency
202.809.8796 (m)
202.564.5238 (o)

From: Koslow, Karin <Koslow.Karin@epa.gov>
Sent: Thursday, August 8, 2019 1:39 PM
To: Hull, George <Hull.George@epa.gov>; Bodine, Susan <bodine.susan@epa.gov>; Starfield, Lawrence <Starfield.Lawrence@epa.gov>; Egan, Patrick <egan.patrick@epa.gov>; Traylor, Patrick <traylor.patrick@epa.gov>; Makepeace, Caroline <Makepeace.Caroline@epa.gov>
Cc: Porter, Amy <Porter.Amy@epa.gov>

Subject: RE: InsideEPA Response - needs additional edits

Ex. 5 AC/DP

Thanks,
Karin

Karin Koslow
Deputy Director, Office of Civil Enforcement
Office of Enforcement and Compliance Assurance
U.S. Environmental Protection Agency
Desk: (202) 564-0171
Cell: (202) 716-5645
WJC South Room 3142D

From: Hull, George <Hull.George@epa.gov>
Sent: Thursday, August 08, 2019 1:25 PM
To: Bodine, Susan <bodine.susan@epa.gov>; Starfield, Lawrence <Starfield.Lawrence@epa.gov>; Egan, Patrick <egan.patrick@epa.gov>; Traylor, Patrick <traylor.patrick@epa.gov>
Cc: Koslow, Karin <Koslow.Karin@epa.gov>
Subject: RE: InsideEPA Response

Ex. 5 AC/DP

From: Hull, George
Sent: Thursday, August 08, 2019 12:53 PM
To: Bodine, Susan <bodine.susan@epa.gov>; Starfield, Lawrence <Starfield.Lawrence@epa.gov>; Egan, Patrick <egan.patrick@epa.gov>; Traylor, Patrick <traylor.patrick@epa.gov>
Cc: Koslow, Karin <Koslow.Karin@epa.gov>
Subject: RE: InsideEPA Response

Ex. 5 AC/DP

Ex. 5 AC/DP

From: Bodine, Susan <bodine.susan@epa.gov>
Sent: Thursday, August 08, 2019 12:26 PM
To: Starfield, Lawrence <Starfield.Lawrence@epa.gov>; Egan, Patrick <egan.patrick@epa.gov>; Traylor, Patrick <traylor.patrick@epa.gov>
Cc: Hull, George <Hull.George@epa.gov>; Koslow, Karin <Koslow.Karin@epa.gov>
Subject: RE: InsideEPA Response

OK

From: Starfield, Lawrence <Starfield.Lawrence@epa.gov>
Sent: Thursday, August 8, 2019 12:22 PM
To: Bodine, Susan <bodine.susan@epa.gov>; Egan, Patrick <egan.patrick@epa.gov>; Traylor, Patrick <traylor.patrick@epa.gov>
Cc: Hull, George <Hull.George@epa.gov>; Koslow, Karin <Koslow.Karin@epa.gov>
Subject: RE: InsideEPA Response

Susan,

Ex. 5 AC/DP

Larry

This message is CONFIDENTIAL, and may contain legally privileged information. If you are not the intended recipient, or believe you received this communication in error, please delete it immediately, do not copy, and notify the sender. Thank you.

From: Bodine, Susan <bodine.susan@epa.gov>
Sent: Thursday, August 08, 2019 11:56 AM
To: Egan, Patrick <egan.patrick@epa.gov>; Starfield, Lawrence <Starfield.Lawrence@epa.gov>; Traylor, Patrick <traylor.patrick@epa.gov>
Cc: Hull, George <Hull.George@epa.gov>
Subject: RE: InsideEPA Response

My redraft. Any comments? Also needs coordination with DOJ.

Ex. 5 AC/DP

From: Egan, Patrick <egan.patrick@epa.gov>
Sent: Thursday, August 8, 2019 11:01 AM
To: Bodine, Susan <bodine.susan@epa.gov>; Starfield, Lawrence <Starfield.Lawrence@epa.gov>; Traylor, Patrick <traylor.patrick@epa.gov>
Cc: Hull, George <Hull.George@epa.gov>
Subject: InsideEPA Response

Susan, Larry and Patrick,

Here is a proposed response to InsideEPA's inquiry. Let me know if you have any comments.

Thanks,

Pat

Ex. 5 Deliberative Process (DP)

Patrick J. Egan, M.P.A.
Deputy Director of Communications
Office of Enforcement and Compliance Assurance
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue NW (MC: 2201A)
Washington, DC 20460
Office: 202-564-4059 | Cell: 202-440-3883

To: Hull, George[Hull.George@epa.gov]; Egan, Patrick[egan.patrick@epa.gov]; Bodine, Susan[bodine.susan@epa.gov]; Traylor, Patrick[traylor.patrick@epa.gov]; Shiffman, Cari[Shiffman.Cari@epa.gov]
From: Starfield, Lawrence[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=8A89D6CD217D4254A5879ABECB3F314E-STARFIELD, LAWRENCE]
Sent: Thur 8/8/2019 2:04:31 PM (UTC)
Subject: Fwd: SEP question

Ex. 5 AC/DP

Sent from my iPhone

Begin forwarded message:

From: "Starfield, Lawrence" <Starfield.Lawrence@epa.gov>
Date: August 7, 2019 at 10:10:26 AM EDT
To: 'Susan Bodine' <bodine.susan@epa.gov>
Subject: SEP question

Susan,

Ex. 5 AC/DP

What do you think?

Larry

This message is CONFIDENTIAL, and may contain legally privileged information. If you are not the intended recipient, or believe you received this communication in error, please delete it immediately, do not copy, and notify the sender. Thank you.

To: bruce.gelber@usdoj.gov[bruce.gelber@usdoj.gov]
Cc: Mariani, Tom (ENRD)[Tom.Mariani@usdoj.gov]; Snow, Corinne (ENRD)[Corinne.Snow@usdoj.gov]
From: Starfield, Lawrence[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=8A89D6CD217D4254A5879ABECB3F314E-STARFIELD, LAWRENCE]
Sent: Fri 8/2/2019 12:02:38 PM (UTC)
Subject: Re: AA - AAG lunch

Sounds good. Have a terrific time on your trip.
Larry

Sent from my iPhone

On Aug 2, 2019, at 12:50 AM, Gelber, Bruce (ENRD) <Bruce.Gelber@usdoj.gov> wrote:

Larry – Sometime next week, before Susan's lunch with Jeff, Tom Mariani will send probably two emails to Jeff.

Ex. 5 Attorney Client (AC)

Copying both Tom and Corinne Snow for their awareness.

Bruce S. Gelber
Deputy Assistant Attorney General
Environment and Natural Resources Division
U.S. Department of Justice
950 Pennsylvania Avenue, N.W., Room 2609
Washington, D.C. 20530-0001
Phone: (202) 514-4624
Facsimile: (202) 514-0557

CONFIDENTIALITY NOTICE: This communication may contain law enforcement sensitive, privileged attorney/client communications or work product, and is not subject to disclosure. It is solely for the use of the intended recipients. Unauthorized interception, review, use or disclosure is prohibited. If you believe that you have received this e-mail in error, please notify the sender immediately, and permanently delete the email, any attachments, and all copies from your computer.

To: Koslow, Karin[Koslow.Karin@epa.gov]; Pollins, Mark[Pollins.Mark@epa.gov]; Porter, Amy[Porter.Amy@epa.gov]; Leif Palmer (Palmer.Leif@epa.gov)[Palmer.Leif@epa.gov]; Suzanne Rubini (Rubini.Suzanne@epa.gov)[Rubini.Suzanne@epa.gov]
Cc: Kelley, Rosemarie[Kelley.Rosemarie@epa.gov]; 'Susan Bodine'[bodine.susan@epa.gov]; Patrick Traylor (traylor.patrick@epa.gov)[traylor.patrick@epa.gov]
From: Starfield, Lawrence[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=8A89D6CD217D4254A5879ABECB3F314E-STARFIELD, LAWRENCE]
Sent: Thur 8/1/2019 6:24:47 PM (UTC)
Subject: Hattiesburg

Ex. 5 AC/AWP

Larry

This message is CONFIDENTIAL, and may contain legally privileged information. If you are not the intended recipient, or believe you received this communication in error, please delete it immediately, do not copy, and notify the sender. Thank you.

From: Koslow, Karin <Koslow.Karin@epa.gov>
Sent: Thursday, August 01, 2019 9:58 AM
To: Starfield, Lawrence <Starfield.Lawrence@epa.gov>
Cc: Pollins, Mark <Pollins.Mark@epa.gov>; Porter, Amy <Porter.Amy@epa.gov>
Subject: FW: Hattiesburg followup

Ex. 5 Deliberative Process (DP)

Ex. 5 AC/AWP

Thanks,
Karin

Karin Koslow
Deputy Director, Office of Civil Enforcement
Office of Enforcement and Compliance Assurance
U.S. Environmental Protection Agency
Desk: (202) 564-0171
Cell: (202) 716-5645
WJC South Room 3142D

From: Palmer, Leif
Sent: Tuesday, July 30, 2019 5:56 PM
To: Pollins, Mark <Pollins.Mark@epa.gov>
Cc: Kelley, Rosemarie <Kelley.Rosemarie@epa.gov>; Hansen, Susan <Hansen.Susan@epa.gov>; Rubini, Suzanne <Rubini.Suzanne@epa.gov>; Rae, Sarah <Rae.Sarah@epa.gov>; Ghosh, Mita <Ghosh.Mita@epa.gov>; Armor, Suzanne <Armor.Suzanne@epa.gov>; R4ORC.SPECIALASSISTANT <R4ORC.SPECIALASSISTANT@epa.gov>; Makepeace, Caroline <Makepeace.Caroline@epa.gov>; Denton, Loren <Denton.Loren@epa.gov>; Koslow, Karin <Koslow.Karin@epa.gov>
Subject: Re: Hattisburg followup

Thanks Mark. Next week should work for us. Angie Cameron handles my schedule and I would need Suzanne Rubini to be included as the Acting ECAD Director.

Sent from my iPhone
On Jul 30, 2019, at 5:35 PM, Pollins, Mark <Pollins.Mark@epa.gov> wrote:

> Leif, hope all is well. This is a difficult one. If you would like to talk prior to Rosemarie's return Loren Denton, Sarah Rae and I would like to be on the call. We should also include Caroline Makepeace from our cross cutting policy group who has been point on the SEP issue. Our DOD Karin Koslow can be included in Rosemarie's place but she is out until the middle of next week. Copying them. Will get back to you with some dates.
>
> Mark
>
> Mark Pollins, Director
> Water Enforcement Division
> Office of Civil Enforcement
> Office of Enforcement and Compliance Assurance (OECA)
> U.S. Environmental Protection Agency
> Phone: (202) 564-4001
> Fax: (202) 564-0018

From: Palmer, Leif
Sent: Tuesday, July 30, 2019 1:45 PM
To: Kelley, Rosemarie <Kelley.Rosemarie@epa.gov>; Pollins, Mark <Pollins.Mark@epa.gov>
Cc: Hansen, Susan <Hansen.Susan@epa.gov>; Rubini, Suzanne <Rubini.Suzanne@epa.gov>; Rae, Sarah <Rae.Sarah@epa.gov>; Ghosh, Mita <Ghosh.Mita@epa.gov>; Armor, Suzanne <Armor.Suzanne@epa.gov>; R4ORC.SPECIALASSISTANT <R4ORC.SPECIALASSISTANT@epa.gov>
Subject: RE: Hattisburg followup

Hi Mark – I see that Rosemarie is out to the 12th; I know we have a call on R4 RNCF cases on the 14th but I'd like for us to discuss Hattiesburg before then.

Ex. 5 Attorney Client (AC)

From: Friedman, Henry (ENRD) <Henry.Friedman@usdoj.gov>
Sent: Friday, July 26, 2019 5:17 PM
To: Palmer, Leif <Palmer.Leif@epa.gov>; Ghosh, Mita <Ghosh.Mita@epa.gov>; bill.weinischke@usdoj.gov; Mann, Valerie (ENRD) <Valerie.Mann@usdoj.gov>
Subject: Hattisburg followup

Dear Leif and Mita,

Ex. 5 AC/AWP

Best,

Henry cc: Bill W, Valerie

Henry S. Friedman
Assistant Section Chief | Environmental Enforcement Section | Environment Division
U.S. Department of Justice
Mailing Address: P.O. Box 7611 Ben Franklin Station, Washington, D.C. 20044
Phone: 202-514-5268 | Email: Henry.friedman@usdoj.gov

To: Porter, Amy[Porter.Amy@epa.gov]
From: Starfield, Lawrence[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=8A89D6CD217D4254A5879ABECB3F314E-STARFIELD, LAWRENCE]
Sent: Wed 7/31/2019 9:52:01 PM (UTC)
Subject: RE: Draft SEPs State/Local Memo

Excellent. Thanks.

Larry

From: Porter, Amy <Porter.Amy@epa.gov>
Sent: Wednesday, July 31, 2019 5:30 PM
To: Starfield, Lawrence <Starfield.Lawrence@epa.gov>
Cc: Kelley, Rosemarie <Kelley.Rosemarie@epa.gov>; Pollins, Mark <Pollins.Mark@epa.gov>; Koslow, Karin <Koslow.Karin@epa.gov>; Makepeace, Caroline <Makepeace.Caroline@epa.gov>; Fogarty, Johnpc <Fogarty.Johnpc@epa.gov>; Buterbaugh, Kristin <Buterbaugh.Kristin@epa.gov>
Subject: RE: Draft SEPs State/Local Memo

Larry – I personally talked to Tom Mariani about this today an Ex. 5 AC/DP

Thanks
Amy

From: Starfield, Lawrence <Starfield.Lawrence@epa.gov>
Sent: Wednesday, July 31, 2019 5:09 PM
To: Porter, Amy <Porter.Amy@epa.gov>
Cc: Kelley, Rosemarie <Kelley.Rosemarie@epa.gov>; Pollins, Mark <Pollins.Mark@epa.gov>; Koslow, Karin <Koslow.Karin@epa.gov>; Makepeace, Caroline <Makepeace.Caroline@epa.gov>; Fogarty, Johnpc <Fogarty.Johnpc@epa.gov>; Buterbaugh, Kristin <Buterbaugh.Kristin@epa.gov>
Subject: RE: Draft SEPs State/Local Memo

Amy,

Did you guys check with Karen Dworkin Ex. 5 AC/DP That would be good to know. Thanks.

Larry
This message is CONFIDENTIAL, and may contain legally privileged information. If you are not the intended recipient, or believe you received this communication in error, please delete it immediately, do not copy, and notify the sender. Thank you.

From: Porter, Amy <Porter.Amy@epa.gov>
Sent: Wednesday, July 31, 2019 1:03 PM
To: Starfield, Lawrence <Starfield.Lawrence@epa.gov>
Cc: Kelley, Rosemarie <Kelley.Rosemarie@epa.gov>; Pollins, Mark <Pollins.Mark@epa.gov>; Koslow, Karin <Koslow.Karin@epa.gov>; Makepeace, Caroline <Makepeace.Caroline@epa.gov>; Fogarty, Johnpc <Fogarty.Johnpc@epa.gov>; Buterbaugh, Kristin <Buterbaugh.Kristin@epa.gov>
Subject: RE: Draft SEPs State/Local Memo

Larry –

Three new edits added to the attached and explained below – for your consideration.

1. (From Caroline, referring to page three):

Ex. 5 AC/DP

Ex. 5 AC/DP

Ex. 5 Deliberative Process (DP)

3. (From John from email below, referring to bottom of page one):

Ex. 5 Deliberative Process (DP)

Please let me know if any questions.
Thanks
Amy
564-2431

From: Fogarty, Johnpc <Fogarty.Johnpc@epa.gov>
Sent: Wednesday, July 31, 2019 10:54 AM
To: Starfield, Lawrence <Starfield.Lawrence@epa.gov>
Cc: Kelley, Rosemarie <Kelley.Rosemarie@epa.gov>; Pollins, Mark <Pollins.Mark@epa.gov>; Koslow, Karin <Koslow.Karin@epa.gov>; Makepeace, Caroline <Makepeace.Caroline@epa.gov>; Porter, Amy <Porter.Amy@epa.gov>
Subject: Re: Draft SEPs State/Local Memo

Ex. 5 AC/DP

Sent from my iPhone
On Jul 31, 2019, at 10:15 AM, Starfield, Lawrence <Starfield.Lawrence@epa.gov> wrote:

Ex. 5 AC/DP

Larry

From: Fogarty, Johnpc
Sent: Wednesday, July 31, 2019 8:26 AM
To: Starfield, Lawrence <Starfield.Lawrence@epa.gov>; Bodine, Susan <bodine.susan@epa.gov>; Kelley, Rosemarie <Kelley.Rosemarie@epa.gov>; Pollins, Mark <Pollins.Mark@epa.gov>
Cc: Koslow, Karin <Koslow.Karin@epa.gov>; Makepeace, Caroline <Makepeace.Caroline@epa.gov>; Porter, Amy <Porter.Amy@epa.gov>
Subject: RE: Draft SEPs State/Local Memo

I'm about to head into 2 days of negotiations and can't really give this a close read, but wonder i Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

From: Starfield, Lawrence <Starfield.Lawrence@epa.gov>
Sent: Tuesday, July 30, 2019 5:30 PM
To: Bodine, Susan <bodine.susan@epa.gov>; Kelley, Rosemarie <Kelley.Rosemarie@epa.gov>
Cc: Fogarty, Johnpc <Fogarty.Johnpc@epa.gov>; Koslow, Karin <Koslow.Karin@epa.gov>; Makepeace, Caroline <Makepeace.Caroline@epa.gov>; Porter, Amy <Porter.Amy@epa.gov>
Subject: RE: Draft SEPs State/Local Memo

Susan,

This is great. It really hits the key points, and does a superb job on the legislative history piece. I had a few editorial suggestions for the group's consideration.

Larry
This message is CONFIDENTIAL, and may contain legally privileged information. If you are not the intended recipient, or believe you received this communication in error, please delete it immediately, do not copy, and notify the sender. Thank you.

From: Bodine, Susan
Sent: Tuesday, July 30, 2019 10:25 AM
To: Starfield, Lawrence <Starfield.Lawrence@epa.gov>; Kelley, Rosemarie <Kelley.Rosemarie@epa.gov>
Cc: Fogarty, Johnpc <Fogarty.Johnpc@epa.gov>; Koslow, Karin <Koslow.Karin@epa.gov>; Makepeace, Caroline <Makepeace.Caroline@epa.gov>; Porter, Amy <Porter.Amy@epa.gov>
Subject: RE: Draft SEPs State/Local Memo

Ex. 5 AC/DP

See attached. Comments welcome.

Susan

From: Starfield, Lawrence
Sent: Monday, July 15, 2019 8:27 AM
To: Kelley, Rosemarie <Kelley.Rosemarie@epa.gov>
Cc: Fogarty, Johnpc <Fogarty.Johnpc@epa.gov>; Koslow, Karin <Koslow.Karin@epa.gov>; Makepeace, Caroline <Makepeace.Caroline@epa.gov>; Porter, Amy <Porter.Amy@epa.gov>; Bodine, Susan <bodine.susan@epa.gov>
Subject: Re: Draft SEPs State/Local Memo

PRIVILEGED AND CONFIDENTIAL

Rosemarie,

Let's do the best we can.

Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

Lots to discuss.

Larry

Sent from my iPhone
On Jul 15, 2019, at 7:40 AM, Kelley, Rosemarie <Kelley.Rosemarie@epa.gov> wrote:

> Larry -
>
> Given that Caroline Makepeace is out through next Friday and John is tied up with Limetree for the next couple of days (and Amy is out until Thursday), Karin and I will talk this morning about how we will develop a response and when we can get it done.
>
> Rosemarie
>
> Rosemarie Kelley, Director
> Office of Civil Enforcement
> OECA

From: Fogarty, Johnpc
Sent: Monday, July 15, 2019 7:24:32 AM
To: Starfield, Lawrence
Cc: Kelley, Rosemarie; Koslow, Karin; Makepeace, Caroline
Subject: Re: Draft SEPs State/Local Memo

I'm in all day negotiations today and tomorrow (Limetree) and won't have a chance to look at this until mid-week, unfortunately.

Sent from my iPhone
On Jul 14, 2019, at 6:48 PM, Starfield, Lawrence <Starfield.Lawrence@epa.gov> wrote:

> Here is Jeff Clark's draft memo on SEPs. I haven't read it yet, but wanted to get it to you ASAP. Please let Susan and I know what you think and what next steps you recommend. I read it tonight or in the morning.
>
> Thanks.
>
> Larry
>
> ---
>
> **From:** Bodine, Susan
> **Sent:** Sunday, July 14, 2019 6:06 PM
> **To:** Starfield, Lawrence <Starfield.Lawrence@epa.gov>; Traylor, Patrick <traylor.patrick@epa.gov>
> **Subject:** Fwd: Draft SEPs State/Local Memo

Sent from my iPad
Begin forwarded message:

From: "Clark, Jeffrey (ENRD)" <jbc1@usdoj.gov>
Date: July 14, 2019 at 4:38:27 PM EDT
To: "bodine.susan@epa.gov" <bodine.susan@epa.gov>
Cc: "Brightbill, Jonathan (ENRD)" <Jonathan.Brightbill@usdoj.gov>, "Gelber, Bruce (ENRD)" <Bruce.Gelber@usdoj.gov>
Subject: Draft SEPs State/Local Memo

Susan, please see the attached.

Ex. 5 AC/DP

Jeff

<ENRD State and Local SEP Memo External Draft 1.docx>

Ex. 5 Attorney Client (AC)

To: Kelley, Rosemarie[Kelley.Rosemarie@epa.gov]; Koslow, Karin[Koslow.Karin@epa.gov]
From: Starfield, Lawrence[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=8A89D6CD217D4254A5879ABECB3F314E-STARFIELD, LAWRENCE]
Sent: Wed 7/31/2019 9:51:08 PM (UTC)
Subject: FW: Draft SEPs State/Local Memo
DRAFT SEP memo to Claire .docx

FYI.

From: Bodine, Susan <bodine.susan@epa.gov>
Sent: Wednesday, July 31, 2019 5:39 PM
To: Clark, Jeffrey (ENRD) <jbc1@usdoj.gov>
Cc: Brightbill, Jonathan (ENRD) <Jonathan.Brightbill@usdoj.gov>; bruce.gelber@usdoj.gov; Starfield, Lawrence <Starfield.Lawrence@epa.gov>
Subject: RE: Draft SEPs State/Local Memo

Jeff,

Attached is a draft memo that I propose to send to Claire setting forth my views on the issue. Ex. 5 Attorney Client (AC)
Ex. 5 Attorney Client (AC)

Susan

From: Clark, Jeffrey (ENRD) <jbc1@usdoj.gov>
Sent: Sunday, July 14, 2019 4:38 PM
To: Bodine, Susan <bodine.susan@epa.gov>
Cc: Brightbill, Jonathan (ENRD) <Jonathan.Brightbill@usdoj.gov>; bruce.gelber@usdoj.gov
Subject: Draft SEPs State/Local Memo

Susan, please see the attached.

Ex. 5 Attorney Client (AC)

Jeff

To: Fogarty, Johnpc[Fogarty.Johnpc@epa.gov]
Cc: Kelley, Rosemarie[Kelley.Rosemarie@epa.gov]; Pollins, Mark[Pollins.Mark@epa.gov]; Koslow, Karin[Koslow.Karin@epa.gov]; Makepeace, Caroline[Makepeace.Caroline@epa.gov]; Porter, Amy[Porter.Amy@epa.gov]
From: Starfield, Lawrence[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=8A89D6CD217D4254A5879ABECB3F314E-STARFIELD, LAWRENCE]
Sent: Wed 7/31/2019 2:56:36 PM (UTC)
Subject: RE: Draft SEPs State/Local Memo

Thanks.

From: Fogarty, Johnpc
Sent: Wednesday, July 31, 2019 10:54 AM
To: Starfield, Lawrence <Starfield.Lawrence@epa.gov>
Cc: Kelley, Rosemarie <Kelley.Rosemarie@epa.gov>; Pollins, Mark <Pollins.Mark@epa.gov>; Koslow, Karin <Koslow.Karin@epa.gov>; Makepeace, Caroline <Makepeace.Caroline@epa.gov>; Porter, Amy <Porter.Amy@epa.gov>
Subject: Re: Draft SEPs State/Local Memo

Ex. 5 AC/DP

Sent from my iPhone
On Jul 31, 2019, at 10:15 AM, Starfield, Lawrence <Starfield.Lawrence@epa.gov> wrote:

Ex. 5 AC/DP

Larry

From: Fogarty, Johnpc
Sent: Wednesday, July 31, 2019 8:26 AM
To: Starfield, Lawrence <Starfield.Lawrence@epa.gov>; Bodine, Susan <bodine.susan@epa.gov>; Kelley, Rosemarie <Kelley.Rosemarie@epa.gov>; Pollins, Mark <Pollins.Mark@epa.gov>
Cc: Koslow, Karin <Koslow.Karin@epa.gov>; Makepeace, Caroline <Makepeace.Caroline@epa.gov>; Porter, Amy <Porter.Amy@epa.gov>
Subject: RE: Draft SEPs State/Local Memo

I'm about to head into 2 days of negotiations and can't really give this a close read, but wonder i Ex. 5 AC/DP

Ex. 5 AC/DP

From: Starfield, Lawrence <Starfield.Lawrence@epa.gov>
Sent: Tuesday, July 30, 2019 5:30 PM
To: Bodine, Susan <bodine.susan@epa.gov>; Kelley, Rosemarie <Kelley.Rosemarie@epa.gov>
Cc: Fogarty, Johnpc <Fogarty.Johnpc@epa.gov>; Koslow, Karin <Koslow.Karin@epa.gov>; Makepeace, Caroline <Makepeace.Caroline@epa.gov>; Porter, Amy <Porter.Amy@epa.gov>
Subject: RE: Draft SEPs State/Local Memo

Susan,

Ex. 5 AC/DP I had a few editorial suggestions for the group's consideration.

Larry

This message is CONFIDENTIAL, and may contain legally privileged information. If you are not the intended recipient, or believe you received this communication in error, please delete it immediately, do not copy, and notify the sender. Thank you.

From: Bodine, Susan
Sent: Tuesday, July 30, 2019 10:25 AM
To: Starfield, Lawrence <Starfield.Lawrence@epa.gov>; Kelley, Rosemarie <Kelley.Rosemarie@epa.gov>
Cc: Fogarty, Johnpc <Fogarty.Johnpc@epa.gov>; Koslow, Karin <Koslow.Karin@epa.gov>; Makepeace, Caroline <Makepeace.Caroline@epa.gov>; Porter, Amy <Porter.Amy@epa.gov>
Subject: RE: Draft SEPs State/Local Memo

Ex. 5 AC/DP See attached. Comments welcome.

Susan

From: Starfield, Lawrence
Sent: Monday, July 15, 2019 8:27 AM
To: Kelley, Rosemarie <Kelley.Rosemarie@epa.gov>
Cc: Fogarty, Johnpc <Fogarty.Johnpc@epa.gov>; Koslow, Karin <Koslow.Karin@epa.gov>; Makepeace, Caroline <Makepeace.Caroline@epa.gov>; Porter, Amy <Porter.Amy@epa.gov>; Bodine, Susan <bodine.susan@epa.gov>
Subject: Re: Draft SEPs State/Local Memo

PRIVILEGED AND CONFIDENTIAL

Rosemarie,

Let's do the best we can.

Ex. 5 AC/DP

Lots to discuss.

Larry

Sent from my iPhone
On Jul 15, 2019, at 7:40 AM, Kelley, Rosemarie <Kelley.Rosemarie@epa.gov> wrote:

Larry -

Given that Caroline Makepeace is out through next Friday and John is tied up with Limetree for the next couple of days (and Amy is out until Thursday), Karin and I will talk this morning about how we will develop a response and when we can get it done.

Rosemarie

Rosemarie Kelley, Director
Office of Civil Enforcement
OECA

From: Fogarty, Johnpc
Sent: Monday, July 15, 2019 7:24:32 AM
To: Starfield, Lawrence
Cc: Kelley, Rosemarie; Koslow, Karin; Makepeace, Caroline
Subject: Re: Draft SEPs State/Local Memo

I'm in all day negotiations today and tomorrow (Limetree) and won't have a chance to look at this until mid-week, unfortunately.

Sent from my iPhone
On Jul 14, 2019, at 6:48 PM, Starfield, Lawrence <Starfield.Lawrence@epa.gov> wrote:

> Here is Jeff Clark's draft memo on SEPs. I haven't read it yet, but wanted to get it to you ASAP. Please let Susan and I know what you think and what next steps you recommend. I read it tonight or in the morning.
>
> Thanks.
>
> Larry
>
> ---
>
> **From:** Bodine, Susan
> **Sent:** Sunday, July 14, 2019 6:06 PM
> **To:** Starfield, Lawrence <Starfield.Lawrence@epa.gov>; Traylor, Patrick <traylor.patrick@epa.gov>
> **Subject:** Fwd: Draft SEPs State/Local Memo
>
> Sent from my iPad
> Begin forwarded message:
>
> > **From:** "Clark, Jeffrey (ENRD)" <jbc1@usdoj.gov>
> > **Date:** July 14, 2019 at 4:38:27 PM EDT
> > **To:** "bodine.susan@epa.gov" <bodine.susan@epa.gov>
> > **Cc:** "Brightbill, Jonathan (ENRD)" <Jonathan.Brightbill@usdoj.gov>, "Gelber, Bruce (ENRD)" <Bruce.Gelber@usdoj.gov>
> > **Subject: Draft SEPs State/Local Memo**
> >
> > Susan, please see the attached.
>
> **Ex. 5 Attorney Client (AC)**
>
> Jeff
>
> <ENRD State and Local SEP Memo External Draft 1.docx>

To: Bodine, Susan[bodine.susan@epa.gov]; Kelley, Rosemarie[Kelley.Rosemarie@epa.gov]
Cc: Fogarty, Johnpc[Fogarty.Johnpc@epa.gov]; Koslow, Karin[Koslow.Karin@epa.gov]; Makepeace, Caroline[Makepeace.Caroline@epa.gov]; Porter, Amy[Porter.Amy@epa.gov]
From: Starfield, Lawrence[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=8A89D6CD217D4254A5879ABECB3F314E-STARFIELD, LAWRENCE]
Sent: Tue 7/30/2019 9:30:26 PM (UTC)
Subject: RE: Draft SEPs State/Local Memo
SEP memo to Claire w LS comments 7 30 19.docx

Susan,

Ex. 5 AC/DP I had a few editorial suggestions for the group's consideration.

Larry
This message is CONFIDENTIAL, and may contain legally privileged information. If you are not the intended recipient, or believe you received this communication in error, please delete it immediately, do not copy, and notify the sender. Thank you.

From: Bodine, Susan
Sent: Tuesday, July 30, 2019 10:25 AM
To: Starfield, Lawrence <Starfield.Lawrence@epa.gov>; Kelley, Rosemarie <Kelley.Rosemarie@epa.gov>
Cc: Fogarty, Johnpc <Fogarty.Johnpc@epa.gov>; Koslow, Karin <Koslow.Karin@epa.gov>; Makepeace, Caroline <Makepeace.Caroline@epa.gov>; Porter, Amy <Porter.Amy@epa.gov>
Subject: RE: Draft SEPs State/Local Memo

Ex. 5 AC/DP ee attached. Comments welcome.

Susan

From: Starfield, Lawrence
Sent: Monday, July 15, 2019 8:27 AM
To: Kelley, Rosemarie <Kelley.Rosemarie@epa.gov>
Cc: Fogarty, Johnpc <Fogarty.Johnpc@epa.gov>; Koslow, Karin <Koslow.Karin@epa.gov>; Makepeace, Caroline <Makepeace.Caroline@epa.gov>; Porter, Amy <Porter.Amy@epa.gov>; Bodine, Susan <bodine.susan@epa.gov>
Subject: Re: Draft SEPs State/Local Memo

PRIVILEGED AND CONFIDENTIAL

Rosemarie,

Let's do the best we can.

Ex. 5 AC/DP

Ex. 5 Deliberative Process (DP)

Lots to discuss.

Larry

Sent from my iPhone
On Jul 15, 2019, at 7:40 AM, Kelley, Rosemarie <Kelley.Rosemarie@epa.gov> wrote:

> Larry -
>
> Given that Caroline Makepeace is out through next Friday and John is tied up with Limetree for the next couple of days (and Amy is out until Thursday), Karin and I will talk this morning about how we will develop a response and when we can get it done.
>
> Rosemarie
>
> Rosemarie Kelley, Director
> Office of Civil Enforcement
> OECA

From: Fogarty, Johnpc
Sent: Monday, July 15, 2019 7:24:32 AM
To: Starfield, Lawrence
Cc: Kelley, Rosemarie; Koslow, Karin; Makepeace, Caroline
Subject: Re: Draft SEPs State/Local Memo

I'm in all day negotiations today and tomorrow (Limetree) and won't have a chance to look at this until mid-week, unfortunately.

Sent from my iPhone
On Jul 14, 2019, at 6:48 PM, Starfield, Lawrence <Starfield.Lawrence@epa.gov> wrote:

> Here is Jeff Clark's draft memo on SEPs. I haven't read it yet, but wanted to get it to you ASAP. Please let Susan and I know what you think and what next steps you recommend. I read it tonight or in the morning.
>
> Thanks.
>
> Larry
>
> ---
>
> **From:** Bodine, Susan
> **Sent:** Sunday, July 14, 2019 6:06 PM
> **To:** Starfield, Lawrence <Starfield.Lawrence@epa.gov>; Traylor, Patrick <traylor.patrick@epa.gov>
> **Subject:** Fwd: Draft SEPs State/Local Memo
>
> Sent from my iPad
> Begin forwarded message:
>
> > **From:** "Clark, Jeffrey (ENRD)" <jbc1@usdoj.gov>
> > **Date:** July 14, 2019 at 4:38:27 PM EDT
> > **To:** "bodine.susan@epa.gov" <bodine.susan@epa.gov>
> > **Cc:** "Brightbill, Jonathan (ENRD)" <Jonathan.Brightbill@usdoj.gov>, "Gelber, Bruce (ENRD)" <Bruce.Gelber@usdoj.gov>
> > **Subject: Draft SEPs State/Local Memo**
> >
> > Susan, please see the attached.

Ex. 5 Attorney Client (AC)

Jeff

<ENRD State and Local SEP Memo External Draft 1.docx>

To: 'Susan Bodine'[bodine.susan@epa.gov]
From: Starfield, Lawrence[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=8A89D6CD217D4254A5879ABECB3F314E-STARFIELD, LAWRENCE]
Sent: Mon 7/29/2019 9:08:55 PM (UTC)
Subject: To discuss with DOJ
Jeff Clark issues 7 29 19.docx
RE: confidential

Susan,

For your consideration in advance of your lunch with Jeff Clark, I prepared the attached memo with several topics that you may want to raise. Ex. 5 AC/DP

Ex. 5 AC/DP

I hope these are helpful. Let me know if you'd like to discuss.

Larry

This message is CONFIDENTIAL, and may contain legally privileged information. If you are not the intended recipient, or believe you received this communication in error, please delete it immediately, do not copy, and notify the sender. Thank you.

To: Koslow, Karin[Koslow.Karin@epa.gov]
Cc: Kelley, Rosemarie[Kelley.Rosemarie@epa.gov]
From: Starfield, Lawrence[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=8A89D6CD217D4254A5879ABECB3F314E-STARFIELD, LAWRENCE]
Sent: Mon 7/29/2019 9:06:57 PM (UTC)
Subject: RE: confidential
Jeff Clark issues 7 29 19.docx

Thanks. This is helpful. I also prepared for Susan a list of possible discussion topics, attached FYI.

Larry

This message is CONFIDENTIAL, and may contain legally privileged information. If you are not the intended recipient, or believe you received this communication in error, please delete it immediately, do not copy, and notify the sender. Thank you.

From: Koslow, Karin
Sent: Monday, July 29, 2019 4:50 PM
To: Starfield, Lawrence <Starfield.Lawrence@epa.gov>
Cc: Kelley, Rosemarie <Kelley.Rosemarie@epa.gov>
Subject: RE: confidential

Larry – this may not be a complete list, as we often learn of these through docket calls, but this is what we've compiled and confirmed with the Divisions. Last week we asked for the briefing paper Ex. 7(A) but we haven't yet received it – hope to have it in hand later today or tomorrow and will share it as soon as we receive.

Ex. 5 AC, DP / Ex. 7(A)

Ex. 5 AC/DP

Karin Koslow
Deputy Director, Office of Civil Enforcement
Office of Enforcement and Compliance Assurance
U.S. Environmental Protection Agency
Desk: (202) 564-0171
Cell: (202) 716-5645
WJC South Room 3142D

To: Kelley, Rosemarie[Kelley.Rosemarie@epa.gov]
Cc: Koslow, Karin[Koslow.Karin@epa.gov]
From: Starfield, Lawrence[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=8A89D6CD217D4254A5879ABECB3F314E-STARFIELD, LAWRENCE]
Sent: Tue 7/16/2019 3:38:46 AM (UTC)
Subject: Re: Draft SEPs State/Local Memo

How about enlisting a few of the RCs to help?

Sent from my iPhone

On Jul 15, 2019, at 5:40 AM, Kelley, Rosemarie <Kelley.Rosemarie@epa.gov> wrote:

Larry -

Given that Caroline Makepeace is out through next Friday and John is tied up with Limetree for the next couple of days (and Amy is out until Thursday), Karin and I will talk this morning about how we will develop a response and when we can get it done.

Rosemarie

Rosemarie Kelley, Director

Office of Civil Enforcement

OECA

From: Fogarty, Johnpc
Sent: Monday, July 15, 2019 7:24:32 AM
To: Starfield, Lawrence
Cc: Kelley, Rosemarie; Koslow, Karin; Makepeace, Caroline
Subject: Re: Draft SEPs State/Local Memo

I'm in all day negotiations today and tomorrow (Limetree) and won't have a chance to look at this until mid-week, unfortunately.

Sent from my iPhone

On Jul 14, 2019, at 6:48 PM, Starfield, Lawrence <Starfield.Lawrence@epa.gov> wrote:

Here is Jeff Clark's draft memo on SEPs. I haven't read it yet, but wanted to get it to you ASAP. Please let Susan and I know what you think and what next steps you recommend. I read it tonight or in the morning.

Thanks.

Larry

From: Bodine, Susan

Sent: Sunday, July 14, 2019 6:06 PM
To: Starfield, Lawrence <Starfield.Lawrence@epa.gov>; Traylor, Patrick <traylor.patrick@epa.gov>
Subject: Fwd: Draft SEPs State/Local Memo

Sent from my iPad
Begin forwarded message:

> **From:** "Clark, Jeffrey (ENRD)" <jbc1@usdoj.gov>
> **Date:** July 14, 2019 at 4:38:27 PM EDT
> **To:** "bodine.susan@epa.gov" <bodine.susan@epa.gov>
> **Cc:** "Brightbill, Jonathan (ENRD)" <Jonathan.Brightbill@usdoj.gov>, "Gelber, Bruce (ENRD)" <Bruce.Gelber@usdoj.gov>
> **Subject: Draft SEPs State/Local Memo**
>
> Susan, please see the attached.
>
> **Ex. 5 Attorney Client (AC)**
>
> Jeff

<ENRD State and Local SEP Memo External Draft 1.docx>

To: Bailey-Morton, Ethel[Bailey-Morton.Ethel@epa.gov]
From: Starfield, Lawrence[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=8A89D6CD217D4254A5879ABECB3F314E-STARFIELD, LAWRENCE]
Sent: Mon 7/15/2019 3:57:07 PM (UTC)
Subject: Fwd: Draft SEPs State/Local Memo

Please print and put it on my chair. Thanks.

Sent from my iPhone

Begin forwarded message:

From: "Starfield, Lawrence" <Starfield.Lawrence@epa.gov>
Date: July 15, 2019 at 6:26:34 AM MDT
To: "Kelley, Rosemarie" <Kelley.Rosemarie@epa.gov>
Cc: "Fogarty, Johnpc" <Fogarty.Johnpc@epa.gov>, "Koslow, Karin" <Koslow.Karin@epa.gov>, "Makepeace, Caroline" <Makepeace.Caroline@epa.gov>, "Porter, Amy" <Porter.Amy@epa.gov>, "Bodine, Susan" <bodine.susan@epa.gov>
Subject: Re: Draft SEPs State/Local Memo

PRIVILEGED AND CONFIDENTIAL
Rosemarie,
Let's do the best we can.

Ex. 5 AC/DP

Lots to discuss.

Larry

Sent from my iPhone

On Jul 15, 2019, at 7:40 AM, Kelley, Rosemarie <Kelley.Rosemarie@epa.gov> wrote:

Larry -

Given that Caroline Makepeace is out through next Friday and John is tied up with Limetree for the next couple of days (and Amy is out until Thursday), Karin and I will talk this morning about how we will develop a response and when we can get it done.

Rosemarie

Rosemarie Kelley, Director

Office of Civil Enforcement

OECA

From: Fogarty, Johnpc
Sent: Monday, July 15, 2019 7:24:32 AM
To: Starfield, Lawrence
Cc: Kelley, Rosemarie; Koslow, Karin; Makepeace, Caroline
Subject: Re: Draft SEPs State/Local Memo

I'm in all day negotiations today and tomorrow (Limetree) and won't have a chance to look at this until mid-week, unfortunately.

Sent from my iPhone

On Jul 14, 2019, at 6:48 PM, Starfield, Lawrence <Starfield.Lawrence@epa.gov> wrote:

> Here is Jeff Clark's draft memo on SEPs. I haven't read it yet, but wanted to get it to you ASAP. Please let Susan and I know what you think and what next steps you recommend. I read it tonight or in the morning.
>
> Thanks.
>
> Larry
>
> ---
>
> **From:** Bodine, Susan
> **Sent:** Sunday, July 14, 2019 6:06 PM
> **To:** Starfield, Lawrence <Starfield.Lawrence@epa.gov>; Traylor, Patrick <traylor.patrick@epa.gov>
> **Subject:** Fwd: Draft SEPs State/Local Memo
>
> Sent from my iPad
> Begin forwarded message:
>
>> **From:** "Clark, Jeffrey (ENRD)" <jbc1@usdoj.gov>
>> **Date:** July 14, 2019 at 4:38:27 PM EDT
>> **To:** "bodine.susan@epa.gov" <bodine.susan@epa.gov>
>> **Cc:** "Brightbill, Jonathan (ENRD)" <Jonathan.Brightbill@usdoj.gov>, "Gelber, Bruce (ENRD)" <Bruce.Gelber@usdoj.gov>
>> **Subject: Draft SEPs State/Local Memo**

Susan, please see the attached.

Ex. 5 Attorney Client (AC)

Jeff

<ENRD State and Local SEP Memo External Draft 1.docx>

To: karen. dworkin (karen.dworkin@usdoj.gov)[/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=75dcf1a6e6c74851b3d6f76d7fc63747-karen.dworkin@usdoj.gov]
From: Starfield, Lawrence[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=8A89D6CD217D4254A5879ABECB3F314E-STARFIELD, LAWRENCE]
Sent: Sun 7/14/2019 10:53:42 PM (UTC)
Subject: FW: Draft SEPs State/Local Memo
ENRD State and Local SEP Memo External Draft 1.docx
ATT00001.htm

Karen,

I assume you'll get this from Bruce, but in case he hasn't seen it yet, here it is. I'll be interesting in knowing what you both think. I'll read it tonight or in the morning.

Larry

From: Bodine, Susan
Sent: Sunday, July 14, 2019 6:06 PM
To: Starfield, Lawrence <Starfield.Lawrence@epa.gov>; Traylor, Patrick <traylor.patrick@epa.gov>
Subject: Fwd: Draft SEPs State/Local Memo

Sent from my iPad
Begin forwarded message:

> **From:** "Clark, Jeffrey (ENRD)" <jbc1@usdoj.gov>
> **Date:** July 14, 2019 at 4:38:27 PM EDT
> **To:** "bodine.susan@epa.gov" <bodine.susan@epa.gov>
> **Cc:** "Brightbill, Jonathan (ENRD)" <Jonathan.Brightbill@usdoj.gov>, "Gelber, Bruce (ENRD)" <Bruce.Gelber@usdoj.gov>
> **Subject: Draft SEPs State/Local Memo**
>
> Susan, please see the attached.
>
> **Ex. 5 Attorney Client (AC)**
>
> Jeff

To: Bodine, Susan[bodine.susan@epa.gov]; Traylor, Patrick[traylor.patrick@epa.gov]
From: Starfield, Lawrence[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=8A89D6CD217D4254A5879ABECB3F314E-STARFIELD, LAWRENCE]
Sent: Sun 7/14/2019 10:50:58 PM (UTC)
Subject: RE: Draft SEPs State/Local Memo

Thanks. I forwarded a copy to Rosemarie, Fogarty, and Caroline Makepeace. I'll read it tonight.

Larry

From: Bodine, Susan
Sent: Sunday, July 14, 2019 6:14 PM
To: Starfield, Lawrence <Starfield.Lawrence@epa.gov>; Traylor, Patrick <traylor.patrick@epa.gov>
Subject: Re: Draft SEPs State/Local Memo

Never mind. Let's share with the team. Ex. 5 AC/DP

Ex. 5 AC/DP

Sent from my iPad
On Jul 14, 2019, at 6:05 PM, Bodine, Susan <bodine.susan@epa.gov> wrote:

> Let's read before forwarding to our folks
>
> Sent from my iPad
> Begin forwarded message:
>
> > **From:** "Clark, Jeffrey (ENRD)" <jbc1@usdoj.gov>
> > **Date:** July 14, 2019 at 4:38:27 PM EDT
> > **To:** "bodine.susan@epa.gov" <bodine.susan@epa.gov>
> > **Cc:** "Brightbill, Jonathan (ENRD)" <Jonathan.Brightbill@usdoj.gov>, "Gelber, Bruce (ENRD)" <Bruce.Gelber@usdoj.gov>
> > **Subject: Draft SEPs State/Local Memo**
> >
> > Susan, please see the attached.
> >
> > Ex. 5 Attorney Client (AC)
> >
> > Jeff
>
> <ENRD State and Local SEP Memo External Draft 1.docx>

To: Rubini, Suzanne[Rubini.Suzanne@epa.gov]; Bodine, Susan[bodine.susan@epa.gov]; Traylor, Patrick[traylor.patrick@epa.gov]; Kelley, Rosemarie[Kelley.Rosemarie@epa.gov]
Cc: Gordon, Scott[Gordon.Scott@epa.gov]; Bush, William[Bush.William@epa.gov]; Palmer, Leif[Palmer.Leif@epa.gov]
From: Starfield, Lawrence[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=8A89D6CD217D4254A5879ABECB3F314E-STARFIELD, LAWRENCE]
Sent: Wed 6/26/2019 9:08:54 PM (UTC)
Subject: RE: Hattisburg, MS muni CWA settlement

Thanks, Suzanne. I've also reached out to Bruce Gelber on this question.

Larry

This message is CONFIDENTIAL, and may contain legally privileged information. If you are not the intended recipient, or believe you received this communication in error, please delete it immediately, do not copy, and notify the sender. Thank you.

From: Rubini, Suzanne
Sent: Wednesday, June 26, 2019 3:50 PM
To: Bodine, Susan <bodine.susan@epa.gov>; Traylor, Patrick <traylor.patrick@epa.gov>; Starfield, Lawrence <Starfield.Lawrence@epa.gov>; Kelley, Rosemarie <Kelley.Rosemarie@epa.gov>
Cc: Gordon, Scott <Gordon.Scott@epa.gov>; Bush, William <Bush.William@epa.gov>; Palmer, Leif <Palmer.Leif@epa.gov>
Subject: Hattisburg, MS muni CWA settlement

Ex. 5 AC/AWP/DP

Thanks,
Suzanne

From: Bush, William
Sent: Wednesday, June 26, 2019 3:45 PM
To: Friedman, Henry (ENRD) <Henry.Friedman@usdoj.gov>
Cc: Ghosh, Mita <Ghosh.Mita@epa.gov>; Rubini, Suzanne <Rubini.Suzanne@epa.gov>
Subject: RE: Hattisburg, MS muni CWA settlement

Thanks, Henry!!

From: Friedman, Henry (ENRD) <Henry.Friedman@usdoj.gov>
Sent: Wednesday, June 26, 2019 3:26 PM
To: Palmer, Leif <Palmer.Leif@epa.gov>; Rubini, Suzanne <Rubini.Suzanne@epa.gov>; Ghosh, Mita <Ghosh.Mita@epa.gov>; bill.weinischke@usdoj.gov; Mann, Valerie (ENRD) <Valerie.Mann@usdoj.gov>; Bush, William <Bush.William@epa.gov>
Subject: RE: Hattisburg, MS muni CWA settlement

Dear Leif, Suzanne, Mita and Bill B,

Ex. 5 AC/AWP/DP

Best,

Henry

From: Friedman, Henry (ENRD)
Sent: Wednesday, June 26, 2019 2:43 PM
To: Palmer, Leif <Palmer.Leif@epa.gov>; Rubini, Suzanne <Rubini.Suzanne@epa.gov>; Ghosh, Mita <Ghosh.Mita@epa.gov>; Weinischke, Bill (ENRD) <BWeinischk@ENRD.USDOJ.GOV>; Mann, Valerie (ENRD) <VMann@ENRD.USDOJ.GOV>
Subject: Hattisburg, MS muni CWA settlement

Dear Leif, Suzanne and Mita,

Ex. 5 AC/AWP/DP

Valerie is conveying this information to Susan A. as well. I am happy to discuss this. I should say that my availability is limited on Friday as our entire office is moving to another office in D.C. starting on Friday and through the weekend (I don't recommend a move of an entire legal office to another location). I will be working at home on Friday and won't have much availability on Monday. I can make myself available this afternoon, Thursday and parts of Friday and Monday.

Best,

Henry

Henry S. Friedman
Assistant Section Chief | Environmental Enforcement Section | Environment Division
U.S. Department of Justice
Mailing Address: P.O. Box 7611 Ben Franklin Station, Washington, D.C. 20044

Phone: 202-514-5268 | Email: Henry.friedman@usdoj.gov

To: Bailey-Morton, Ethel[Bailey-Morton.Ethel@epa.gov]
From: Starfield, Lawrence[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=8A89D6CD217D4254A5879ABECB3F314E-STARFIELD, LAWRENCE]
Sent: Wed 6/26/2019 6:38:28 PM (UTC)
Subject: Fwd: Hattiesburg SEP/CD Update

Please print and put it on my chair. Thanks.

Sent from my iPhone

Begin forwarded message:

> **From:** "Palmer, Leif" <Palmer.Leif@epa.gov>
> **Date:** June 26, 2019 at 2:29:40 PM EDT
> **To:** "Kelley, Rosemarie" <Kelley.Rosemarie@epa.gov>, "Starfield, Lawrence" <Starfield.Lawrence@epa.gov>
> **Cc:** "Pollins, Mark" <Pollins.Mark@epa.gov>
> **Subject: Fwd: Hattiesburg SEP/CD Update**
>
> Sent from my iPhone
>
> Begin forwarded message:
>
> > **From:** "Armor, Suzanne" <Armor.Suzanne@epa.gov>
> > **Date:** June 26, 2019 at 2:24:02 PM EDT
> > **To:** "Ghosh, Mita" <Ghosh.Mita@epa.gov>, "Palmer, Leif" <Palmer.Leif@epa.gov>, "Hansen, Susan" <Hansen.Susan@epa.gov>, "Rubini, Suzanne" <Rubini.Suzanne@epa.gov>, "Gordon, Scott" <Gordon.Scott@epa.gov>, "Bush, William" <Bush.William@epa.gov>, "Bragan, Mary Jo" <Bragan.Maryjo@epa.gov>, "Chavez, Araceli" <Chavez.Araceli@epa.gov>, "Elliott, Richard" <Elliott.Richard@epa.gov>, "Sayre, Dennis" <Sayre.Dennis@epa.gov>
> > **Subject: Hattiesburg SEP/CD Update**
> >
> > ATTORNEY WORK PRODUCT
> > ATTORNEY-CLIENT COMMUNICATION
> > CUI/LES
> > DO NOT RELEASE UNDER FOIA OR IN DISCOVERY
>
> **Ex. 5 AC/AWP/DP**
>
> Please let me know if you have any questions or concerns.
>
> Thank you,
> Suzanne

SUZANNE K. ARMOR | ATTORNEY-ADVISOR
United States Environmental Protection Agency
Office of Regional Counsel
Office of Water Legal Support
61 Forsyth Street, S.W.
Atlanta, Georgia 30303
tel: 404.562.9701
fax: 404.562.8078
armor.suzanne@epa.gov

CONFIDENTIALITY NOTICE: This message is being sent by or on behalf of an attorney. It is intended exclusively for the individual(s) or entity(ies) to whom or to which it is addressed. This communication may contain information that is proprietary, privileged, or confidential or otherwise legally exempt from disclosure. If you are not the named addressee, you are not authorized to read, print, retain, copy, or disseminate this message or any part of it. If you have received this message in error, please notify the sender immediately by email and delete all copies of the message.

To: Payne, James[payne.james@epa.gov]
From: Starfield, Lawrence[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=8A89D6CD217D4254A5879ABECB3F314E-STARFIELD, LAWRENCE]
Sent: Thur 6/27/2019 11:52:34 AM (UTC)
Subject: Re: Corpus Christi and SEP

Jim,
Thanks for the update. We're trying to get this issue resolved soon.

Larry

Sent from my iPhone

On Jun 26, 2019, at 9:56 PM, Payne, James <payne.james@epa.gov> wrote:

Hi Rosemarie, Larry – sharing FYI this process update that Corpus Christi proposed CD is nearly completed, other than as to SEP.

From: Herbert, Rusty
Sent: Wednesday, June 26, 2019 10:38 AM
To: Payne, James <payne.james@epa.gov>; McDonald, Scott <mcdonald.scott@epa.gov>; Welton, Patricia <Welton.Patricia@epa.gov>; Peters, Carol <Peters.Carol@epa.gov>
Subject: CC Status Update week of 6/26/2019

Ex. 5 AC/AWP/DP

Cc: Traylor, Patrick[traylor.patrick@epa.gov]; Kelley, Rosemarie[Kelley.Rosemarie@epa.gov]; Johnson, Kathleen[Johnson.Kathleen@epa.gov]
To: Bodine, Susan[bodine.susan@epa.gov]
From: Starfield, Lawrence[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=8A89D6CD217D4254A5879ABECB3F314E-STARFIELD, LAWRENCE]
Sent: Wed 6/26/2019 10:55:59 PM (UTC)
Subject: Fwd: Hattiesburg SEP/CD Update

Susan,
Here's the response from Bruce **Ex. 5 Attorney Client (AC)**

Larry

Sent from my iPhone

Begin forwarded message:

From: "Gelber, Bruce (ENRD)" <Bruce.Gelber@usdoj.gov>
Date: June 26, 2019 at 6:13:23 PM EDT
To: "Starfield, Lawrence" <Starfield.Lawrence@epa.gov>
Subject: RE: Hattiesburg SEP/CD Update

Ex. 5 AC/AWP/DP

Thanks

From: Starfield, Lawrence <Starfield.Lawrence@epa.gov>
Sent: Wednesday, June 26, 2019 5:04 PM
To: Gelber, Bruce (ENRD) <BGelber@ENRD.USDOJ.GOV>
Subject: Fwd: Hattiesburg SEP/CD Update

PRIVILEGED AND CONFIDENTIAL

Bruce,

Ex. 5 AC/AWP/DP

Larry

Sent from my iPhone
Begin forwarded message:

From: "Palmer, Leif" <Palmer.Leif@epa.gov>
Date: June 26, 2019 at 2:29:40 PM EDT
To: "Kelley, Rosemarie" <Kelley.Rosemarie@epa.gov>, "Starfield, Lawrence" <Starfield.Lawrence@epa.gov>
Cc: "Pollins, Mark" <Pollins.Mark@epa.gov>
Subject: Fwd: Hattiesburg SEP/CD Update

Sent from my iPhone
Begin forwarded message:

From: "Armor, Suzanne" <Armor.Suzanne@epa.gov>
Date: June 26, 2019 at 2:24:02 PM EDT
To: "Ghosh, Mita" <Ghosh.Mita@epa.gov>, "Palmer, Leif" <Palmer.Leif@epa.gov>, "Hansen, Susan" <Hansen.Susan@epa.gov>, "Rubini, Suzanne" <Rubini.Suzanne@epa.gov>, "Gordon, Scott" <Gordon.Scott@epa.gov>, "Bush, William" <Bush.William@epa.gov>, "Bragan, Mary Jo" <Bragan.Maryjo@epa.gov>, "Chavez, Araceli" <Chavez.Araceli@epa.gov>, "Elliott, Richard" <Elliott.Richard@epa.gov>, "Sayre, Dennis" <Sayre.Dennis@epa.gov>
Subject: Hattiesburg SEP/CD Update

ATTORNEY WORK PRODUCT
ATTORNEY-CLIENT COMMUNICATION
CUI/LES
DO NOT RELEASE UNDER FOIA OR IN DISCOVERY

Ex. 5 AC/AWP/DP

Please let me know if you have any questions or concerns.

Thank you,
Suzanne

SUZANNE K. ARMOR | ATTORNEY-ADVISOR
United States Environmental Protection Agency
Office of Regional Counsel
Office of Water Legal Support
61 Forsyth Street, S.W.
Atlanta, Georgia 30303
tel: 404.562.9701
fax: 404.562.8078
armor.suzanne@epa.gov

CONFIDENTIALITY NOTICE: This message is being sent by or on behalf of an attorney. It is intended exclusively for the individual(s) or entity(ies) to whom or to which it is addressed. This communication may contain information that is proprietary, privileged, or confidential or otherwise legally exempt from disclosure. If you are not the named addressee, you are not authorized to read, print, retain, copy, or disseminate this message or any part of it. If you have received this message in error, please notify the sender immediately by email and delete all copies of the message.

To: bruce.gelber@usdoj.gov[bruce.gelber@usdoj.gov]
From: Starfield, Lawrence[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=8A89D6CD217D4254A5879ABECB3F314E-STARFIELD, LAWRENCE]
Sent: Wed 6/26/2019 10:47:01 PM (UTC)
Subject: Re: Hattiesburg SEP/CD Update

Bruce,

Ex. 5 Attorney Client (AC)

On the awards, there are DOJ recipients, and Susan is sending a congratulatory note and invitation imminently. We'll cc you, and I'll send you the list separately now.

Larry

Sent from my iPhone

On Jun 26, 2019, at 6:13 PM, Gelber, Bruce (ENRD) <Bruce.Gelber@usdoj.gov> wrote:

Ex. 5 AC/AWP/DP

On another topic: I gather EPA is in the process of announcing its gold, silver and bronze medals for the year. Is it at all possible for me to get a copy of the award recipients if they include anyone from DOJ or ENRD. I like to let our staff know about these awards. The recipients and their colleagues appreciate hearing about them.

Thanks

From: Starfield, Lawrence <Starfield.Lawrence@epa.gov>
Sent: Wednesday, June 26, 2019 5:04 PM
To: Gelber, Bruce (ENRD) <BGelber@ENRD.USDOJ.GOV>
Subject: Fwd: Hattiesburg SEP/CD Update

PRIVILEGED AND CONFIDENTIAL

Bruce,

Ex. 5 AC/AWP/DP

Larry

Sent from my iPhone
Begin forwarded message:

> **From:** "Palmer, Leif" <Palmer.Leif@epa.gov>
> **Date:** June 26, 2019 at 2:29:40 PM EDT
> **To:** "Kelley, Rosemarie" <Kelley.Rosemarie@epa.gov>, "Starfield, Lawrence" <Starfield.Lawrence@epa.gov>
> **Cc:** "Pollins, Mark" <Pollins.Mark@epa.gov>
> **Subject: Fwd:** Ex. 7(A) **EP/CD Update**

Sent from my iPhone
Begin forwarded message:

From: "Armor, Suzanne" <Armor.Suzanne@epa.gov>
Date: June 26, 2019 at 2:24:02 PM EDT
To: "Ghosh, Mita" <Ghosh.Mita@epa.gov>, "Palmer, Leif" <Palmer.Leif@epa.gov>, "Hansen, Susan" <Hansen.Susan@epa.gov>, "Rubini, Suzanne" <Rubini.Suzanne@epa.gov>, "Gordon, Scott" <Gordon.Scott@epa.gov>, "Bush, William" <Bush.William@epa.gov>, "Bragan, Mary Jo" <Bragan.Maryjo@epa.gov>, "Chavez, Araceli" <Chavez.Araceli@epa.gov>, "Elliott, Richard" <Elliott.Richard@epa.gov>, "Sayre, Dennis" <Sayre.Dennis@epa.gov>
Subject: Hattiesburg SEP/CD Update

ATTORNEY WORK PRODUCT
ATTORNEY-CLIENT COMMUNICATION
CUI/LES
DO NOT RELEASE UNDER FOIA OR IN DISCOVERY

Ex. 5 AC/AWP/DP

Please let me know if you have any questions or concerns.

Thank you,
Suzanne

<IMAGEOO1.PNG>**SUZANNE K. ARMOR | ATTORNEY-ADVISOR**
United States Environmental Protection Agency
Office of Regional Counsel
Office of Water Legal Support
61 Forsyth Street, S.W.
Atlanta, Georgia 30303
tel: 404.562.9701
fax: 404.562.8078
armor.suzanne@epa.gov

CONFIDENTIALITY NOTICE: This message is being sent by or on behalf of an attorney. It is intended exclusively for the individual(s) or entity(ies) to whom or to which it is addressed. This communication may contain information that is proprietary, privileged, or confidential or otherwise legally exempt from disclosure. If you are not the named addressee, you are not authorized to read, print, retain, copy, or disseminate this message or any part of it. If you have received this message in error, please notify the sender immediately by email and delete all copies of the message.

To: Bailey-Morton, Ethel[Bailey-Morton.Ethel@epa.gov]
From: Starfield, Lawrence[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=8A89D6CD217D4254A5879ABECB3F314E-STARFIELD, LAWRENCE]
Sent: Tue 5/14/2019 11:40:56 AM (UTC)
Subject: Fwd: SEPs

Please print and put it on my chair. Thanks.

Sent from my iPhone

Begin forwarded message:

From: "Kelley, Rosemarie" <Kelley.Rosemarie@epa.gov>
Date: May 13, 2019 at 6:46:21 PM EDT
To: "Bodine, Susan" <bodine.susan@epa.gov>
Cc: "Starfield, Lawrence" <Starfield.Lawrence@epa.gov>, "Koslow, Karin" <Koslow.Karin@epa.gov>, "Fogarty, Johnpc" <Fogarty.Johnpc@epa.gov>, "Porter, Amy" <Porter.Amy@epa.gov>, "Makepeace, Caroline" <Makepeace.Caroline@epa.gov>, "Pollins, Mark" <Pollins.Mark@epa.gov>, "Buterbaugh, Kristin" <Buterbaugh.Kristin@epa.gov>
Subject: RE: SEPs

Susan –

Thanks for sharing what your heard during your discussion with Jeff today.

Ex. 5 AC/AWP/DP

Rosemarie

From: Bodine, Susan
Sent: Monday, May 13, 2019 5:18 PM
To: Starfield, Lawrence <Starfield.Lawrence@epa.gov>; Kelley, Rosemarie <Kelley.Rosemarie@epa.gov>; Fogarty, Johnpc <Fogarty.Johnpc@epa.gov>; Porter, Amy <Porter.Amy@epa.gov>; Makepeace, Caroline <Makepeace.Caroline@epa.gov>
Subject: SEPs

Ex. 5 AC/AWP/DP

Ex. 5 Attorney Client (AC)

Susan

Susan Parker Bodine
Assistant Administrator
Office of Enforcement and Compliance Assurance
202-564-2440

This message is CONFIDENTIAL, and may contain legally privileged information. If you are not the intended recipient, or believe you received this communication in error, please delete it immediately, do not copy, and notify the sender. Thank you.

To: Bailey-Morton, Ethel[Bailey-Morton.Ethel@epa.gov]
From: Starfield, Lawrence[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=8A89D6CD217D4254A5879ABECB3F314E-STARFIELD, LAWRENCE]
Sent: Sun 4/28/2019 10:38:56 PM (UTC)
Subject: FW: SEP meeting with DOJ
Possible Talking Points for meeting with Jesse Pannucio 4 28 19.docx

Please print and put it on my chair. Thanks.

From: Starfield, Lawrence
Sent: Sunday, April 28, 2019 6:38 PM
To: Susan Bodine (bodine.susan@epa.gov) <bodine.susan@epa.gov>
Cc: Kelley, Rosemarie <Kelley.Rosemarie@epa.gov>; Fogarty, Johnpc <Fogarty.Johnpc@epa.gov>; Makepeace, Caroline <Makepeace.Caroline@epa.gov>
Subject: SEP meeting with DOJ

Susan,

Ex. 5 Deliberative Process (DP)

For your consideration.

Larry

This message is CONFIDENTIAL, and may contain legally privileged information. If you are not the intended recipient, or believe you received this communication in error, please delete it immediately, do not copy, and notify the sender. Thank you.

To: Kelley, Rosemarie[Kelley.Rosemarie@epa.gov]
From: Starfield, Lawrence[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=8A89D6CD217D4254A5879ABECB3F314E-STARFIELD, LAWRENCE]
Sent: Fri 5/3/2019 6:36:59 PM (UTC)
Subject: RE: Region 6

Thanks.

From: Kelley, Rosemarie
Sent: Friday, May 03, 2019 1:56 PM
To: Starfield, Lawrence <Starfield.Lawrence@epa.gov>; Koslow, Karin <Koslow.Karin@epa.gov>
Subject: Re: Region 6

Larry --

As you know, we just had the docket review on Wednesday and talked about each of those cases with the Region. We can talk about them with you on Tuesday when we meet.

Ex. 5 Attorney Work Product (AWP)/AC/DP

Rosemarie

From: Starfield, Lawrence
Sent: Friday, May 3, 2019 1:31:07 PM
To: Kelley, Rosemarie; Koslow, Karin
Subject: Region 6

Rosemarie/Karin,

In a conversation last week with Cheryl Seager, I said that I had reviewed the Dashboard and was surprised and disappointed by the very low IR and Environmental benefits so far this year, as compared to prior years. Cheryl called back today with a couple of observations:

1. She thinks their numbers on the Dashboard may not include all of their work; she'll check that out with OC.
2. She said there are a number of cases on their docket that would produce strong results, and she'd welcome our help to move one or more forward:

Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

Please give this some thought, and let me know if any of these warrant elevation here or at DOJ.

Thanks.

Larry

This message is CONFIDENTIAL, and may contain legally privileged information. If you are not the intended recipient, or believe you received this communication in error, please delete it immediately, do not copy, and notify the sender. Thank you.

To: Starfield, Lawrence[Starfield.Lawrence@epa.gov]
From: Starfield, Lawrence[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=8A89D6CD217D4254A5879ABECB3F314E-STARFIELD, LAWRENCE]
Sent: Thur 5/2/2019 5:10:57 PM (UTC)
Subject: Fwd: Follow-Up Note on SEPs

Self

Sent from my iPhone

Begin forwarded message:

From: "Bodine, Susan" <bodine.susan@epa.gov>
Date: May 2, 2019 at 1:02:28 PM EDT
To: "jesse.panuccio@usdoj.gov" <jesse.panuccio@usdoj.gov>
Cc: "Clark, Jeffrey (ENRD)" <jbc1@usdoj.gov>, "bruce.gelber@usdoj.gov" <bruce.gelber@usdoj.gov>, "Starfield, Lawrence" <Starfield.Lawrence@epa.gov>
Subject: Follow-Up Note on SEPs

Jesse,

Ex. 5 AC/DP

Ex. 5 AC/DP

Thank you for your partnership with EPA during your time at DOJ.

Susan

Susan Parker Bodine
Assistant Administrator
Office of Enforcement and Compliance Assurance
202-564-2440

This message is CONFIDENTIAL, and may contain legally privileged information. If you are not the intended recipient, or believe you received this communication in error, please delete it immediately, do not copy, and notify the sender. Thank you.

To: Bailey-Morton, Ethel[Bailey-Morton.Ethel@epa.gov]
From: Starfield, Lawrence[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=8A89D6CD217D4254A5879ABECB3F314E-STARFIELD, LAWRENCE]
Sent: Thur 5/2/2019 5:10:13 PM (UTC)
Subject: Fwd: Follow-Up Note on SEPs

Please print and put it on my chair. Thanks.

Sent from my iPhone

Begin forwarded message:

From: "Bodine, Susan" <bodine.susan@epa.gov>
Date: May 2, 2019 at 1:02:28 PM EDT
To: "jesse.panuccio@usdoj.gov" <jesse.panuccio@usdoj.gov>
Cc: "Clark, Jeffrey (ENRD)" <jbc1@usdoj.gov>, "bruce.gelber@usdoj.gov" <bruce.gelber@usdoj.gov>, "Starfield, Lawrence" <Starfield.Lawrence@epa.gov>
Subject: Follow-Up Note on SEPs

Jesse,

Ex. 5 AC/DP

Ex. 5 AC/DP

Thank you for your partnership with EPA during your time at DOJ.

Susan

Susan Parker Bodine
Assistant Administrator
Office of Enforcement and Compliance Assurance
202-564-2440

This message is CONFIDENTIAL, and may contain legally privileged information. If you are not the intended recipient, or believe you received this communication in error, please delete it immediately, do not copy, and notify the sender. Thank you.

To: Susan Bodine (bodine.susan@epa.gov)[bodine.susan@epa.gov]
From: Starfield, Lawrence[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=8A89D6CD217D4254A5879ABECB3F314E-STARFIELD, LAWRENCE]
Sent: Thur 5/2/2019 4:37:05 PM (UTC)
Subject: Note to Jesse Pannucio
Follow up note on SEPs v.11.docx

Susan,

Here's the latest. Text is as you've seen – info was added on the SEP examples. I think it's ready to go.

Larry

This message is CONFIDENTIAL, and may contain legally privileged information. If you are not the intended recipient, or believe you received this communication in error, please delete it immediately, do not copy, and notify the sender. Thank you.

Draft Follow-Up Note on SEPs and the *Principles and Procedures for Civil Consent Decrees and Settlement Agreements with State and Local Governmental Entities*
5/2/19 Draft

Jesse,

Thank you for meeting with us on Tuesday and providing an explanation of Attorney General Sessions' *Principles and Procedures for Civil Consent Decrees and Settlement Agreements with State and Local Governmental Entities* (November 2018) and how that policy relates to EPA's SEP practice. I also appreciate your willingness to think further about these issues even as you prepare to depart DOJ. As you do, I thought it would be useful to provide you with some further thoughts on the concerns you raised, along with some examples of our municipal consent decrees and the types of SEP projects that have been included in those settlements.

Ex. 5 AC/DP

Ex. 5 AC/DP

Examples of SEPs with State and Local Governments

- **U.S. and State of Ohio v. City Middletown (CSO Settlement)** –
  - **Injunctive Relief:** 25-year implementation schedule; estimated cost of IR ~ $250 million.
  - **SEP**: capping a specified area of sediments within the Hydraulic Canal; $200,000; less than one year to complete.
- **U.S. and State of Indiana v. City of Gary (CSO & SSO Settlement) –**
  - **Injunctive Relief:** 25-year implementation schedule; estimated cost of IR is approximately $100 million to $300 million.
  - **SEP:** remove invasive plant species from a 19-acre area on the banks of the Grand Calumet; $175,000; approximately two years to complete.
- **U.S. and Commonwealth of Massachusetts v. City of Haverhill (CSO and MS4 Settlement) –**
  - Injunctive Relief: 13-year implementation schedule; estimated cost of IR $60 million.
  - SEP: riverbank restoration; $176,000; approximately 2.5 years to complete.
- **U.S. v. Nevada DOT (MS4 Settlement) –**
  - **Injunctive Relief:** 2-year implementation schedule; estimated cost of IR ~ $33 million.
  - **SEP:** real time monitoring of water quality data; $200,000; less than two years to complete.
- **U.S. v. County of Westchester (SDWA Settlement) –**
  - **Injunctive Relief:** 3-year implementation schedule; estimated cost of IR $10 million.
  - **SEP:** purchase rain barrels; increase number of days residents' unused household chemicals and pharmaceuticals will be accepted at defendants' recovery facility; $691,000. For rain barrels, SEP completed when $100,000 worth of rain barrels are distributed; for collection, 3 years to complete.
- **U.S. and State of Ohio v. City of Lima (CSO & SSO Settlement) –**
  - Injunctive Relief: 20-year implementation schedule; estimated cost of IR ~ $147 million
  - SEP: revitalization of stream bank; $218,000; less than one year to complete

- **U.S. and Intervenor Commonwealth of Massachusetts v. City of Fitchburg (CSO Settlement) –**
    - **Injunctive Relief:** 18-year implementation schedule; expected cost of IR approximately $100 million.
    - **SEP:** stream bank stabilization; $100,000; one year to complete.
- **U.S. and State of Iowa v. City Dubuque (SSO settlement)–**
    - **Injunctive Relief:** 5-year implementation schedule; estimated cost of IR $5 million.
    - **SEP:** reconstruct 4 alleys using permeable interlocking concrete pavers; $300,000; slightly more than three years to complete.

cc: Jeff Clark
Bruce Gelber

To: Bailey-Morton, Ethel[Bailey-Morton.Ethel@epa.gov]; Loving, Shanita[Loving.Shanita@epa.gov]
From: Starfield, Lawrence[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=8A89D6CD217D4254A5879ABECB3F314E-STARFIELD, LAWRENCE]
Sent: Thur 5/2/2019 3:48:33 PM (UTC)
Subject: Fwd: Revised draft of follow-up note on muni SEPs
Follow up note on SEPs v.9.docx
ATT00001.htm

Please print two copies and bring in.
Sent from my iPhone

Begin forwarded message:

From: "Makepeace, Caroline" <Makepeace.Caroline@epa.gov>
Date: May 2, 2019 at 11:36:31 AM EDT
To: "Starfield, Lawrence" <Starfield.Lawrence@epa.gov>
Cc: "Kelley, Rosemarie" <Kelley.Rosemarie@epa.gov>, "Fogarty, Johnpc" <Fogarty.Johnpc@epa.gov>, "Porter, Amy" <Porter.Amy@epa.gov>, "Pollins, Mark" <Pollins.Mark@epa.gov>, "Denton, Loren" <Denton.Loren@epa.gov>, "Buterbaugh, Kristin" <Buterbaugh.Kristin@epa.gov>, "Gonzalez, Sarah" <Gonzalez.Sarah@epa.gov>
Subject: Revised draft of follow-up note on muni SEPs

Larry –

Attached is a revised draft reflecting thoughts from Susan, you and DOJ.

We have scrambled to QA QC the examples and add in info about IR.

Ex. 5 Deliberative Process (DP)

Let us know if any questions or further actions needed.

Caroline Makepeace
Senior Counsel
Crosscutting Policy Staff
Office of Civil Enforcement
US Environmental Protection Agency
202-564-6012

This may contain enforcement confidential or privileged material. Do not release without appropriate review. If you have received this message in error, please inform the sender, and promptly delete.

To: Kelley, Rosemarie[Kelley.Rosemarie@epa.gov]
Cc: Fogarty, Johnpc[Fogarty.Johnpc@epa.gov]; Makepeace, Caroline[Makepeace.Caroline@epa.gov]; Koslow, Karin[Koslow.Karin@epa.gov]; Buterbaugh, Kristin[Buterbaugh.Kristin@epa.gov]
From: Starfield, Lawrence[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=8A89D6CD217D4254A5879ABECB3F314E-STARFIELD, LAWRENCE]
Sent: Thur 5/2/2019 12:53:13 PM (UTC)
Subject: RE: Draft Follow-Up Note on SEPs
Follow up note on SEPs v.5.docx

Susan liked the draft, and added in a few points (see attached).

Ex. 5 AC/DP

Thanks.

Larry

This message is CONFIDENTIAL, and may contain legally privileged information. If you are not the intended recipient, or believe you received this communication in error, please delete it immediately, do not copy, and notify the sender. Thank you.

From: Starfield, Lawrence
Sent: Thursday, May 02, 2019 8:31 AM
To: Kelley, Rosemarie <Kelley.Rosemarie@epa.gov>
Cc: Fogarty, Johnpc <Fogarty.Johnpc@epa.gov>; Makepeace, Caroline <Makepeace.Caroline@epa.gov>; Koslow, Karin <Koslow.Karin@epa.gov>; Buterbaugh, Kristin <Buterbaugh.Kristin@epa.gov>
Subject: RE: Draft Follow-Up Note on SEPs

Two more points for you to consider:

Ex. 5 AC/DP

Larry

This message is CONFIDENTIAL, and may contain legally privileged information. If you are not the intended recipient, or believe you received this communication in error, please delete it immediately, do not copy, and notify the sender. Thank you.

From: Starfield, Lawrence
Sent: Thursday, May 02, 2019 8:01 AM
To: Kelley, Rosemarie <Kelley.Rosemarie@epa.gov>
Cc: Fogarty, Johnpc <Fogarty.Johnpc@epa.gov>; Makepeace, Caroline <Makepeace.Caroline@epa.gov>; Koslow, Karin <Koslow.Karin@epa.gov>; Buterbaugh, Kristin <Buterbaugh.Kristin@epa.gov>
Subject: Fwd: Draft Follow-Up Note on SEPs

Rosemarie (and team),

This looks terrific. A couple of thoughts:

Ex. 5 AC/DP

Let me know what you think, and we can discuss with Susan.

Thanks for the fast and excellent effort.

Larry

Sent from my iPhone
Begin forwarded message:

From: "Kelley, Rosemarie" <Kelley.Rosemarie@epa.gov>
Date: May 1, 2019 at 8:39:01 PM EDT
To: "Starfield, Lawrence" <Starfield.Lawrence@epa.gov>
Cc: "Fogarty, Johnpc" <Fogarty.Johnpc@epa.gov>, "Makepeace, Caroline" <Makepeace.Caroline@epa.gov>, "Koslow, Karin" <Koslow.Karin@epa.gov>, "Buterbaugh, Kristin" <Buterbaugh.Kristin@epa.gov>
Subject: Draft Follow-Up Note on SEPs

Larry –

Attached is a draft follow-up note for Susan to send to DOJ re: SEPs.

Rosemarie

Regards,
Rosemarie A. Kelley, Director
Office of Civil Enforcement
Office of Enforcement and Compliance Assurance
202-564-4014

Draft Follow-Up Note on SEPs and the *Principles and Procedures for Civil Consent Decrees and Settlement Agreements with State and Local Governmental Entities*

Thank you for meeting with us yesterday and providing an explanation of Attorney General Sessions' *Principles and Procedures for Civil Consent Decrees and Settlement Agreements with State and Local Governmental Entities* (November 2018) and how that policy relates to EPA's SEP practice. I also appreciate your willingness to think further about these issues even as you prepare to depart DOJ. As you do, I thought it would be useful to provide you with some further thoughts on the concerns you raised yesterday, along with some examples of our municipal consent decrees and the types of SEP projects that have been included in those settlements.

Ex. 5 AC/DP

Ex. 5 AC/DP

Below Examples of SEPs with State and Local Governments

- U.S. and State of Ohio v. City Middletown (combined sewer overflow (CSO) decree) – capping a specified area of sediments within the Hydraulic Canal; $200,000; less than one year to complete
- U.S. and State of Indiana v. City of Gary (CSO decree) – remove invasive plant species from a 19-acre area on the banks of the Grand Calumet; $175,000; approximately two years to complete
- Ex. 5 Attorney Work Product (AWP)/AC/DP
- U.S. v. Nevada DOT (stormwater decree) – real time monitoring of water quality data; $200,000; less than two years to complete [need app A]
- Ex. 5 Attorney Work Product (AWP)/AC/DP
- U.S. and State of Ohio v. City of Lima (CSO decree) – revitalization of stream bank; $218,000; less than one year to complete [need app. F]
- Ex. 5 Attorney Work Product (AWP)/AC/DP
- Ex. 5 Attorney Work Product (AWP)/AC/DP
-

To: Starfield, Lawrence[Starfield.Lawrence@epa.gov]
From: Starfield, Lawrence[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=8A89D6CD217D4254A5879ABECB3F314E-STARFIELD, LAWRENCE]
Sent: Thur 5/2/2019 11:49:04 AM (UTC)
Subject: Fwd: Draft Follow-Up Note on SEPs
Follow up note on SEPs v.4.docx
ATT00001.htm

Ex. 5 Deliberative Process (DP)

Sent from my iPhone

Begin forwarded message:

From: "Kelley, Rosemarie" <Kelley.Rosemarie@epa.gov>
Date: May 1, 2019 at 8:39:01 PM EDT
To: "Starfield, Lawrence" <Starfield.Lawrence@epa.gov>
Cc: "Fogarty, Johnpc" <Fogarty.Johnpc@epa.gov>, "Makepeace, Caroline" <Makepeace.Caroline@epa.gov>, "Koslow, Karin" <Koslow.Karin@epa.gov>, "Buterbaugh, Kristin" <Buterbaugh.Kristin@epa.gov>
Subject: Draft Follow-Up Note on SEPs

Larry –

Attached is a draft follow-up note for Susan to send to DOJ re: SEPs.

Rosemarie

Regards,

Rosemarie A. Kelley, Director
Office of Civil Enforcement
Office of Enforcement and Compliance Assurance
202-564-4014

To: Starfield, Lawrence[Starfield.Lawrence@epa.gov]
From: Starfield, Lawrence[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=8A89D6CD217D4254A5879ABECB3F314E-STARFIELD, LAWRENCE]
Sent: Thur 5/2/2019 11:47:45 AM (UTC)
Subject: Fwd: Draft Follow-Up Note on SEPs
Follow up note on SEPs v.4.docx
ATT00001.htm

Ex. 5 AC/DP

Sent from my iPhone

Begin forwarded message:

From: "Kelley, Rosemarie" <Kelley.Rosemarie@epa.gov>
Date: May 1, 2019 at 8:39:01 PM EDT
To: "Starfield, Lawrence" <Starfield.Lawrence@epa.gov>
Cc: "Fogarty, Johnpc" <Fogarty.Johnpc@epa.gov>, "Makepeace, Caroline" <Makepeace.Caroline@epa.gov>, "Koslow, Karin" <Koslow.Karin@epa.gov>, "Buterbaugh, Kristin" <Buterbaugh.Kristin@epa.gov>
Subject: Draft Follow-Up Note on SEPs

Larry –

Attached is a draft follow-up note for Susan to send to DOJ re: SEPs.

Rosemarie

Regards,
Rosemarie A. Kelley, Director
Office of Civil Enforcement
Office of Enforcement and Compliance Assurance
202-564-4014

To: Schaaf, Eric[Schaaf.Eric@epa.gov]
From: Starfield, Lawrence[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=8A89D6CD217D4254A5879ABECB3F314E-STARFIELD, LAWRENCE]
Sent: Wed 6/5/2019 2:07:48 PM (UTC)
Subject: RE: your message

Will do. Have a great vacation.

Larry

From: Schaaf, Eric
Sent: Wednesday, June 05, 2019 9:55 AM
To: Starfield, Lawrence <Starfield.Lawrence@epa.gov>
Subject: RE: your message

Ex. 5 AC/DP

Eric

From: Starfield, Lawrence
Sent: Tuesday, June 4, 2019 5:29 PM
To: Schaaf, Eric <Schaaf.Eric@epa.gov>
Subject: your message

Ex. 5 AC/DP

Larry

This message is CONFIDENTIAL, and may contain legally privileged information. If you are not the intended recipient, or believe you received this communication in error, please delete it immediately, do not copy, and notify the sender. Thank you.

To: Kelley, Rosemarie[Kelley.Rosemarie@epa.gov]
Cc: Koslow, Karin[Koslow.Karin@epa.gov]; Porter, Amy[Porter.Amy@epa.gov]; Makepeace, Caroline[Makepeace.Caroline@epa.gov]; Fogarty, Johnpc[Fogarty.Johnpc@epa.gov]; Buterbaugh, Kristin[Buterbaugh.Kristin@epa.gov]; Shiffman, Cari[Shiffman.Cari@epa.gov]
From: Starfield, Lawrence[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=8A89D6CD217D4254A5879ABECB3F314E-STARFIELD, LAWRENCE]
Sent: Wed 6/5/2019 1:09:27 PM (UTC)
Subject: RE: Draft Thank-You Email from Bodine to Murray re meeting on Muni SEPs

This looks good. I had a few suggestions, below. Please consider them, and then send a revised version to both Susan and me so that we can issue this today. Thanks.

Larry

This message is CONFIDENTIAL, and may contain legally privileged information. If you are not the intended recipient, or believe you received this communication in error, please delete it immediately, do not copy, and notify the sender. Thank you.

From: Kelley, Rosemarie
Sent: Tuesday, June 04, 2019 7:03 PM
To: Starfield, Lawrence <Starfield.Lawrence@epa.gov>
Cc: Koslow, Karin <Koslow.Karin@epa.gov>; Porter, Amy <Porter.Amy@epa.gov>; Makepeace, Caroline <Makepeace.Caroline@epa.gov>; Fogarty, Johnpc <Fogarty.Johnpc@epa.gov>; Buterbaugh, Kristin <Buterbaugh.Kristin@epa.gov>; Shiffman, Cari <Shiffman.Cari@epa.gov>
Subject: Draft Thank-You Email from Bodine to Murray re meeting on Muni SEPs

Larry—Here is our proposed note from Susan to Claire. We look forward to your feedback.
****

Claire—

Ex. 5 AC/DP

Ex. 5 AC/DP

Please let me know if I can provide any further information.

Susan

Regards,

Rosemarie A. Kelley, Director
Office of Civil Enforcement
Office of Enforcement and Compliance Assurance
202-564-4014

To: Starfield, Lawrence[Starfield.Lawrence@epa.gov]
From: Starfield, Lawrence[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=8A89D6CD217D4254A5879ABECB3F314E-STARFIELD, LAWRENCE]
Sent: Wed 6/5/2019 11:54:35 AM (UTC)
Subject: Re: Draft Thank-You Email from Bodine to Murray re meeting on Muni SEPs

I think this looks great. I would add **Ex. 5 Deliberative Process (DP)**

Sent from my iPhone

On Jun 4, 2019, at 7:02 PM, Kelley, Rosemarie <Kelley.Rosemarie@epa.gov> wrote:

Larry—Here is our proposed note from Susan to Claire. We look forward to your feedback.
****

Claire—

Ex. 5 AC/DP

Regards,
Rosemarie A. Kelley, Director
Office of Civil Enforcement
Office of Enforcement and Compliance Assurance

To: Patterson, Kenneth[Patterson.Kenneth@epa.gov]; Mariani, Tom (ENRD)[Tom.Mariani@usdoj.gov]; Kelley, Rosemarie[Kelley.Rosemarie@epa.gov]; Mackey, Cyndy[Mackey.Cyndy@epa.gov]; DeLeon, Rafael[Deleon.Rafael@epa.gov]
Cc: Mahan, Ellen (ENRD)[Ellen.Mahan@usdoj.gov]
From: Starfield, Lawrence[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=8A89D6CD217D4254A5879ABECB3F314E-STARFIELD, LAWRENCE]
Sent: Wed 4/24/2019 8:01:32 PM (UTC)
Subject: RE: EPA-ENRD conference call set for Monday April 29: Do you propose any items for the agenda? -->

Ken,

Ex. 5 AC/DP

Larry
This message is CONFIDENTIAL, and may contain legally privileged information. If you are not the intended recipient, or believe you received this communication in error, please delete it immediately, do not copy, and notify the sender. Thank you.

From: Patterson, Kenneth
Sent: Wednesday, April 24, 2019 2:13 PM
To: Mariani, Tom (ENRD) <Tom.Mariani@usdoj.gov>; Starfield, Lawrence <Starfield.Lawrence@epa.gov>; Kelley, Rosemarie <Kelley.Rosemarie@epa.gov>; Mackey, Cyndy <Mackey.Cyndy@epa.gov>; DeLeon, Rafael <Deleon.Rafael@epa.gov>
Cc: Mahan, Ellen (ENRD) <Ellen.Mahan@usdoj.gov>; Lipshultz, Jon (ENRD) <Jon.Lipshultz@usdoj.gov>
Subject: RE: EPA-ENRD conference call set for Monday April 29: Do you propose any items for the agenda? -->

Ex. 5 AC/DP/AWP

From: Mariani, Tom (ENRD) <Tom.Mariani@usdoj.gov>
Sent: Wednesday, April 24, 2019 1:50 PM
To: Starfield, Lawrence <Starfield.Lawrence@epa.gov>; Kelley, Rosemarie <Kelley.Rosemarie@epa.gov>; Mackey, Cyndy <Mackey.Cyndy@epa.gov>; DeLeon, Rafael <Deleon.Rafael@epa.gov>; Patterson, Kenneth <Patterson.Kenneth@epa.gov>
Cc: Mahan, Ellen (ENRD) <Ellen.Mahan@usdoj.gov>; Lipshultz, Jon (ENRD) <Jon.Lipshultz@usdoj.gov>
Subject: EPA-ENRD conference call set for Monday April 29: Do you propose any items for the agenda? -->

The next EPA-ENRD Monday call is coming up fast. Any suggestions for the agenda? If so please send them to me and to Ellen Mahan (Ellen will assure that the agenda comes together during my travels on Friday and Monday morning.).

As always, if you can send us proposals before Noon on Friday, it is a big help to us. Thanks. TM
Cc: Ellen

To: Fogarty, Johnpc[Fogarty.Johnpc@epa.gov]; Makepeace, Caroline[Makepeace.Caroline@epa.gov]
Cc: Kelley, Rosemarie[Kelley.Rosemarie@epa.gov]
From: Starfield, Lawrence[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=8A89D6CD217D4254A5879ABECB3F314E-STARFIELD, LAWRENCE]
Sent: Mon 4/22/2019 11:05:51 PM (UTC)
Subject: FW: Consent Decree
ENV_ENFORCEMENT-#2805839-v1-Houston_Funal_Clark_Douglas_Emial_Response_.DOCX

John/Caroline,

Here's the draft from Nat.

Larry
This message is CONFIDENTIAL, and may contain legally privileged information. If you are not the intended recipient, or believe you received this communication in error, please delete it immediately, do not copy, and notify the sender. Thank you.

From: Starfield, Lawrence
Sent: Monday, April 22, 2019 7:05 PM
To: Bodine, Susan <bodine.susan@epa.gov>; Kelley, Rosemarie <Kelley.Rosemarie@epa.gov>; Fogarty, Johnpc <Fogarty.Johnpc@epa.gov>; Makepeace, Caroline <Makepeace.Caroline@epa.gov>
Subject: RE: Consent Decree

Three quick thoughts:

Ex. 5 AC/DP

Larry
This message is CONFIDENTIAL, and may contain legally privileged information. If you are not the intended recipient, or believe you received this communication in error, please delete it immediately, do not copy, and notify the sender. Thank you.

From: Douglas, Nathaniel (ENRD) <Nathaniel.Douglas@usdoj.gov>
Sent: Monday, April 22, 2019 5:14 PM
To: Bodine, Susan <bodine.susan@epa.gov>; Starfield, Lawrence <Starfield.Lawrence@epa.gov>; Kelley, Rosemarie <Kelley.Rosemarie@epa.gov>; Payne, James <payne.james@epa.gov>
Cc: bruce.gelber@usdoj.gov; Snow, Corinne (ENRD) <Corinne.Snow@usdoj.gov>
Subject: FW: Consent Decree

Ex. 5 Attorney Client (AC)

From: Debra Baker <DBaker@BakerWotring.com>
Sent: Wednesday, April 10, 2019 8:21 PM
To: Douglas, Nathaniel (ENRD) <NDouglas@ENRD.USDOJ.GOV>; Efren Ordonez (Ordonez.Efren@epamail.epa.gov) <Ordonez.Efren@epamail.epa.gov>
Cc: Goodwin, Phillip - HPW <Phillip.Goodwin@houstontx.gov>
Subject: Consent Decree

Nat, this will follow up on our call yesterday when Jeff Clark and Susan Bodine advised the City that DOJ/EPA interpreted the Sessions memo to preclude them from keeping the SEP and stipulated remedies language in the CD because the memo did not allow CDs to be used to obtain things that could not be obtained by litigating the matter to judgment. This interpretation of the Sessions memo also precludes EPA from obtaining any stipulated penalties in the CD because stipulated penalties, like stipulated remedies, cannot be obtained by litigating the matter to judgment since a Judge cannot order penalties for events or violations that have not yet occurred. Simply put, stipulated penalties are not things that the United States could obtain through agency action or in litigation as per the Sessions Memo at page 5.

Given this position, we propose to simply eliminate the references to the United States' recovery of stipulated penalties and just cut the stipulated penalty amounts currently in the CD in half so that the State can recover its half of the amounts negotiated. We ask that you review this with your management and believe that this will fully resolve the outstanding issue you have raised with the Sessions memo. Thanks, Debra.

Debra Tsuchiyama Baker
Managing Partner
Baker · Wotring LLP
700 JPMorgan Chase Tower
600 Travis Street
Houston, TX 77002
713.980.1717 Direct
713.594.2212 Cell
713.980.1700 Main
713.980.1701 Fax
dbaker@bakerwotring.com
www.bakerwotring.com

Confidentiality Notice: The information contained in this electronic mail transmission is confidential. It may also be subject to the attorney-client privilege or be privileged work product or proprietary information. This information is intended for the exclusive use of the addressee(s). If you are not the intended recipient, you are hereby notified that any use, disclosure, dissemination, distribution (other than to the addressee(s)), copying or taking of any action because of this information is strictly prohibited. If this message has been sent to you in error, please reply to the sender that you have received this message in error, then delete this message without dissemination of any kind.

To: 'Susan Bodine'[bodine.susan@epa.gov]
From: Starfield, Lawrence[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=8A89D6CD217D4254A5879ABECB3F314E-STARFIELD, LAWRENCE]
Sent: Wed 10/2/2019 3:02:25 PM (UTC)
Subject: FW: SEP Ex. 5 AC/DP
Hattiesburg MS Summary 10 2 19 rev.docx

Susan,

As I mentioned earlier, I am attaching a corrected version of Hattiesburg fact sheet that you sent to Claire Murray. The only change is in the last sentence of the third bullet unde Ex. 5 Deliberative Process (DP)

Ex. 5 AC/AWP/DP

Hopefully, the revised fact sheet can be easily substituted.

Larry

This message is CONFIDENTIAL, and may contain legally privileged information. If you are not the intended recipient, or believe you received this communication in error, please delete it immediately, do not copy, and notify the sender. Thank you.

To: Kelley, Rosemarie[Kelley.Rosemarie@epa.gov]
From: Starfield, Lawrence[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=8A89D6CD217D4254A5879ABECB3F314E-STARFIELD, LAWRENCE]
Sent: Wed 10/2/2019 12:53:18 PM (UTC)
Subject: RE: Ex. 5 Attorney Client (AC)

Thanks.

From: Kelley, Rosemarie <Kelley.Rosemarie@epa.gov>
Sent: Wednesday, October 02, 2019 8:39 AM
To: Starfield, Lawrence <Starfield.Lawrence@epa.gov>
Subject: Re: Ex. 5 Attorney Client (AC)

That's right.

Rosemarie
On Oct 2, 2019, at 7:51 AM, Starfield, Lawrence <Starfield.Lawrence@epa.gov> wrote:

Ex. 5 Deliberative Process (DP)

Sent from my iPhone
On Oct 1, 2019, at 7:42 PM, Kelley, Rosemarie <Kelley.Rosemarie@epa.gov> wrote:

Larry –

I revised the version that Susan sent Claire. See attached.

Rosemarie

From: Starfield, Lawrence <Starfield.Lawrence@epa.gov>
Sent: Tuesday, October 01, 2019 6:32 PM
To: Kelley, Rosemarie <Kelley.Rosemarie@epa.gov>
Subject: Re: Ex. 5 Attorney Client (AC)

Can you forward a corrected fact sheet that Ex. 5 Deliberative Process (DP)

Sent from my iPhone
On Oct 1, 2019, at 1:59 PM, Kelley, Rosemarie <Kelley.Rosemarie@epa.gov> wrote:

Larry—

Ex. 5 Deliberative Process (DP)

Rosemarie

From: Starfield, Lawrence <Starfield.Lawrence@epa.gov>
Sent: Friday, September 27, 2019 10:06 AM
To: Bodine, Susan <bodine.susan@epa.gov>
Cc: Kelley, Rosemarie <Kelley.Rosemarie@epa.gov>
Subject: FW: Ex. 5 Attorney Client (AC)

Susan,

Ex. 5 Deliberative Process (DP)

For your consideration. (I'm cc'ing Rosemarie in case she has additional suggestions.)

Larry

This message is CONFIDENTIAL, and may contain legally privileged information. If you are not the intended recipient, or believe you received this communication in error, please delete it immediately, do not copy, and notify the sender. Thank you.
****

From: Susan Bodine

To: Claire Murray

Thru: Jeff Clark

Ex. 5 AC/AWP/DP

Ex. 5 AC/AWP/DP

Please let me know if you would like to discuss this further. I appreciate your consideration of this request.

<Hattiesburg MS Summary 09 21 19 rak rev.docx>

To: Bailey-Morton, Ethel[Bailey-Morton.Ethel@epa.gov]
From: Starfield, Lawrence[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=8A89D6CD217D4254A5879ABECB3F314E-STARFIELD, LAWRENCE]
Sent: Wed 10/2/2019 11:49:30 AM (UTC)
Subject: Fwd: Ex. 5 Attorney Client (AC)
Hattiesburg MS Summary 09 21 19 rak rev.docx
ATT00001.htm

Please print and put it on my chair. Thanks.

Sent from my iPhone

Begin forwarded message:

From: "Kelley, Rosemarie" <Kelley.Rosemarie@epa.gov>
Date: October 1, 2019 at 7:42:08 PM EDT
To: "Starfield, Lawrence" <Starfield.Lawrence@epa.gov>
Subject: RE: Ex. 5 Attorney Client (AC)

Larry –

I revised the version that Susan sent Claire. See attached.

Rosemarie

From: Starfield, Lawrence <Starfield.Lawrence@epa.gov>
Sent: Tuesday, October 01, 2019 6:32 PM
To: Kelley, Rosemarie <Kelley.Rosemarie@epa.gov>
Subject: Re: Ex. 5 Attorney Client (AC)

Can you forward a corrected fact sheet that Ex. 5 AC/DP

Sent from my iPhone
On Oct 1, 2019, at 1:59 PM, Kelley, Rosemarie <Kelley.Rosemarie@epa.gov> wrote:

Larry—

Ex. 5 AC/DP

Rosemarie

From: Starfield, Lawrence <Starfield.Lawrence@epa.gov>
Sent: Friday, September 27, 2019 10:06 AM
To: Bodine, Susan <bodine.susan@epa.gov>
Cc: Kelley, Rosemarie <Kelley.Rosemarie@epa.gov>
Subject: FW: Ex. 5 Attorney Client (AC)

Susan,

Ex. 5 AC/DP

For your consideration. (I'm cc'ing Rosemarie in case she has additional suggestions.)

Larry

This message is CONFIDENTIAL, and may contain legally privileged information. If you are not the intended recipient, or believe you received this communication in error, please delete it immediately, do not copy, and notify the sender. Thank you.
****

From: Susan Bodine

To: Claire Murray

Thru: Jeff Clark

Ex. 5 AC/AWP/DP

Ex. 5 AC/AWP/DP

Please let me know if you would like to discuss this further. I appreciate your consideration of this request.

To: Bailey-Morton, Ethel[Bailey-Morton.Ethel@epa.gov]
From: Starfield, Lawrence[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=8A89D6CD217D4254A5879ABECB3F314E-STARFIELD, LAWRENCE]
Sent: Mon 4/15/2019 10:40:27 PM (UTC)
Subject: Fwd: Materials for discussion with DOJ on SEPs

Please print and put it on my chair. Thanks.

Sent from my iPhone

Begin forwarded message:

From: "Fogarty, Johnpc" <Fogarty.Johnpc@epa.gov>
Date: April 15, 2019 at 4:55:44 PM EDT
To: "Bodine, Susan" <bodine.susan@epa.gov>, "Starfield, Lawrence" <Starfield.Lawrence@epa.gov>
Cc: "Makepeace, Caroline" <Makepeace.Caroline@epa.gov>, "Kelley, Rosemarie" <Kelley.Rosemarie@epa.gov>, "Porter, Amy" <Porter.Amy@epa.gov>
Subject: Materials for discussion with DOJ on SEPs

Susan and Larry –

Attached are several materials in advance of the meeting with DOJ on Friday on SEPs.

First are two briefing papers (on SEPs and third-party payments), that were prepared by DOJ. These were just shared with us and we have not yet had a chance to review.

Second, also attached is a chart showing SEP annual results for the past ten years, and a copy of the current and consolidated SEP Policy (the "2015 Update"). We are also pulling together a variety of recent examples of SEPs which we will forward Wednesday, in advance of briefing you on all of this at the OCE general Thursday.

Finally, we do want to highlight an important passage from the SEP Policy that is particularly germane to the proper analysis of SEPs and penalties: Section IX, A. bottom of page 21, states as follows (emphasis added):

> ***SEPs are not penalties, nor are they accepted in lieu of a penalty****. However, a violator's commitment to perform a SEP is a relevant factor for the EPA to consider in establishing an appropriate settlement penalty. All else being equal, the final settlement penalty will be lower for a violator who agrees to perform an acceptable SEP, compared to the violator who does not.*

Please let us know if you have any questions or would like other materials.

<FINAL 2015 UPDATE TO SEP POLICY.pdf>

<sep annual results graph.pdf>

<LPS-#268841-v1-TPP_Briefing_Paper_041519_External (002).DOCX>

<LPS-#268842-v1-SEPs_Briefing_Paper_041519_External (002).DOCX>

To: Bodine, Susan[bodine.susan@epa.gov]
From: Starfield, Lawrence[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=8A89D6CD217D4254A5879ABECB3F314E-STARFIELD, LAWRENCE]
Sent: Sun 9/22/2019 12:56:24 PM (UTC)
Subject: RE: DOJ follow up

Ex. 5 AC/DP

From: Bodine, Susan <bodine.susan@epa.gov>
Sent: Saturday, September 21, 2019 8:21 PM
To: Starfield, Lawrence <Starfield.Lawrence@epa.gov>
Subject: Re: DOJ follow up

I elevated to Claire on SEPs

Sent from my iPhone
On Sep 21, 2019, at 12:08 PM, Starfield, Lawrence <Starfield.Lawrence@epa.gov> wrote:

Susan,

I spoke to Bruce Gelber. A couple of points.

1. Meeting? There is a "phone call" on your calendar with Jeff for next Friday (9/27) at 10 am, and no others are invited. However, Jeff told Bruce that he plans to come over to EPA for a meeting with political leaders next

Ex. 5 AC/DP

Ex. 5 Deliberative Process (DP)/ AWP

Ex. 5 Attorney Work Product (AWP)/AC/DP

Let me know what you think, especially re: point 2. Thanks.

Larry
This message is CONFIDENTIAL, and may contain legally privileged information. If you are not the intended recipient, or believe you received this communication in error, please delete it immediately, do not copy, and notify the sender. Thank you.

To: Starfield, Lawrence[Starfield.Lawrence@epa.gov]
From: Starfield, Lawrence[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=8A89D6CD217D4254A5879ABECB3F314E-STARFIELD, LAWRENCE]
Sent: Sun 9/22/2019 12:39:33 PM (UTC)
Subject: RE: Ex. 5 Attorney Client (AC)
Hattiesburg MS Summary 09 21 19.docx
Brookhaven Summary 09 21 19.docx

Susan and Rosemarie,

Larry Starfield
Principal Deputy Assistant Administrator
Office of Enforcement and Compliance Assurance
U.S. EPA
Washington, DC

(202) 564-2440 (office)
(202) 564-8179 (direct)
(202) 505-0961 (cell)

This message is CONFIDENTIAL, and may contain legally privileged information. If you are not the intended recipient, or believe you received this communication in error, please delete it immediately, do not copy, and notify the sender. Thank you.

From: Kelley, Rosemarie <Kelley.Rosemarie@epa.gov>
Sent: Tuesday, September 17, 2019 10:45 PM
To: Starfield, Lawrence <Starfield.Lawrence@epa.gov>
Cc: Porter, Amy <Porter.Amy@epa.gov>; Makepeace, Caroline <Makepeace.Caroline@epa.gov>; Fogarty, Johnpc <Fogarty.Johnpc@epa.gov>; Buterbaugh, Kristin <Buterbaugh.Kristin@epa.gov>
Subject: Ex. 5 Attorney Client (AC)

Larry --

We want to get your thoughts on our Ex. 5 AC/DP. Attached are the write-ups for the two cases and here is a proposed note for Susan to send to Jeff:
****

Jeff--

Ex. 5 AC/AWP/DP

Ex. 5 AC/AWP/DP

Ex. 5 AC/AWP/DP

Rosemarie

Rosemarie Kelley, Director

Office of Civil Enforcement

OECA

To: Gelber, Bruce (ENRD)[Bruce.Gelber@usdoj.gov]
From: Starfield, Lawrence[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=8A89D6CD217D4254A5879ABECB3F314E-STARFIELD, LAWRENCE]
Sent: Fri 9/27/2019 9:50:16 PM (UTC)
Subject: FW: Ex. 5 AC/DP
Brookhaven Summary 09 21 19.docx
Hattiesburg MS Summary 09 21 19.docx

FYI.

From: Bodine, Susan
Sent: Friday, September 27, 2019 4:43 PM
To: Clark, Jeffrey (ENRD) <jbc1@usdoj.gov>
Subject: Ex. 5 AC/DP

Jeff,

Ex. 5 AC/DP

Please let me know if you need additional information.

Susan

Susan Parker Bodine
Assistant Administrator
Office of Enforcement and Compliance Assurance
202-564-2440

This message is CONFIDENTIAL, and may contain legally privileged information. If you are not the intended recipient, or believe you received this communication in error, please delete it immediately, do not copy, and notify the sender. Thank you.

****

From: Susan Bodine

To: Claire Murray

Thru: Jeff Clark

Ex. 5 AC/AWP/DP

Ex. 5 AC/AWP/DP

To: Hannah Branning (Branning.Hannah@epa.gov)[Branning.Hannah@epa.gov]
From: Starfield, Lawrence[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=8A89D6CD217D4254A5879ABECB3F314E-STARFIELD, LAWRENCE]
Sent: Mon 4/8/2019 12:06:17 PM (UTC)
Subject: FW: interpretive statement and follow-up Ex. 7(A)

From: Starfield, Lawrence
Sent: Saturday, April 06, 2019 8:53 AM
To: Bailey, Ethel <Bailey.Ethel@epa.gov>
Subject: FW: interpretive statement and follow-up Ex. 7(A)

Please print and put it on my chair.

From: Theis, Joseph
Sent: Friday, April 05, 2019 2:51 PM
To: Bodine, Susan <bodine.susan@epa.gov>
Cc: Starfield, Lawrence <Starfield.Lawrence@epa.gov>; Traylor, Patrick <traylor.patrick@epa.gov>; Kelley, Rosemarie <Kelley.Rosemarie@epa.gov>; Pollins, Mark <Pollins.Mark@epa.gov>; Buterbaugh, Kristin <Buterbaugh.Kristin@epa.gov>; Sullivan, Greg <Sullivan.Greg@epa.gov>; Bahk, Benjamin <Bahk.Benjamin@epa.gov>; Fisher, Mike <Fisher.Mike@epa.gov>
Subject: RE: interpretive statement and follow-up Ex. 7(A)

Ex. 5 AC, DP / Ex. 7(A)

- Joe

Joseph G. Theis
Associate Director
Water Enforcement Division
Office of Enforcement and Compliance Assurance
U.S. EPA (2243A)
1200 Pennsylvania Ave, NW
Washington, D.C. 20460
(202)564-4053

This email may contain deliberative, attorney-client, attorney work product or otherwise privileged material. Do not release under FOIA without appropriate review. If this email has been received by you in error, you are instructed to delete it from your machine and all storage media whether electronic or hard copy.

From: Bodine, Susan
Sent: Friday, April 05, 2019 2:27 PM
To: Theis, Joseph <Theis.Joseph@epa.gov>
Cc: Starfield, Lawrence <Starfield.Lawrence@epa.gov>; Traylor, Patrick <traylor.patrick@epa.gov>; Kelley, Rosemarie <Kelley.Rosemarie@epa.gov>; Pollins, Mark <Pollins.Mark@epa.gov>; Buterbaugh, Kristin <Buterbaugh.Kristin@epa.gov>; Sullivan, Greg <Sullivan.Greg@epa.gov>; Bahk, Benjamin <Bahk.Benjamin@epa.gov>; Fisher, Mike <Fisher.Mike@epa.gov>
Subject: RE: interpretive statement

Ex. 5 Deliberative Process (DP)

I will send to Matt, Dave Ross, etc. You can go ahead and send it to Steve.

From: Theis, Joseph
Sent: Friday, April 5, 2019 11:09 AM
To: Bodine, Susan <bodine.susan@epa.gov>

Cc: Starfield, Lawrence <Starfield.Lawrence@epa.gov>; Traylor, Patrick <traylor.patrick@epa.gov>; Kelley, Rosemarie <Kelley.Rosemarie@epa.gov>; Pollins, Mark <Pollins.Mark@epa.gov>; Buterbaugh, Kristin <Buterbaugh.Kristin@epa.gov>; Sullivan, Greg <Sullivan.Greg@epa.gov>; Bahk, Benjamin <Bahk.Benjamin@epa.gov>; Fisher, Mike <Fisher.Mike@epa.gov>
Subject: FW: interpretive statement

Ex. 5 AC/DP

Ex. 5 AC/DP

- Joe

Joseph G. Theis

Associate Director
Water Enforcement Division
Office of Enforcement and Compliance Assurance
U.S. EPA (2243A)
1200 Pennsylvania Ave, NW
Washington, D.C. 20460
(202)564-4053

This email may contain deliberative, attorney-client, attorney work product or otherwise privileged material. Do not release under FOIA without appropriate review. If this email has been received by you in error, you are instructed to delete it from your machine and all storage media whether electronic or hard copy.

From: Bodine, Susan
Sent: Thursday, April 04, 2019 6:22 PM
To: Fisher, Mike <Fisher.Mike@epa.gov>; Theis, Joseph <Theis.Joseph@epa.gov>
Cc: Pollins, Mark <Pollins.Mark@epa.gov>
Subject: interpretive statement

Ex. 5 Deliberative Process (DP)

Susan

To: Bailey, Ethel[Bailey.Ethel@epa.gov]
From: Starfield, Lawrence[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=8A89D6CD217D4254A5879ABECB3F314E-STARFIELD, LAWRENCE]
Sent: Sat 4/6/2019 12:34:10 PM (UTC)
Subject: Fwd: interpretive statement and follow-up Ex. 7(A) question

Please print and put it on my chair. Thanks.

Sent from my iPhone

Begin forwarded message:

From: "Bodine, Susan" <bodine.susan@epa.gov>
Date: April 5, 2019 at 4:23:18 PM EDT
To: "Theis, Joseph" <Theis.Joseph@epa.gov>
Cc: "Starfield, Lawrence" <Starfield.Lawrence@epa.gov>, "Traylor, Patrick" <traylor.patrick@epa.gov>, "Kelley, Rosemarie" <Kelley.Rosemarie@epa.gov>, "Pollins, Mark" <Pollins.Mark@epa.gov>
Subject: RE: interpretive statement and follow-up Ex. 7(A) question

Results of DOJ call this morning:

Ex. 5 AC/DP

From: Theis, Joseph
Sent: Friday, April 5, 2019 2:51 PM
To: Bodine, Susan <bodine.susan@epa.gov>

Cc: Starfield, Lawrence <Starfield.Lawrence@epa.gov>; Traylor, Patrick <traylor.patrick@epa.gov>; Kelley, Rosemarie <Kelley.Rosemarie@epa.gov>; Pollins, Mark <Pollins.Mark@epa.gov>; Buterbaugh, Kristin <Buterbaugh.Kristin@epa.gov>; Sullivan, Greg <Sullivan.Greg@epa.gov>; Bahk, Benjamin <Bahk.Benjamin@epa.gov>; Fisher, Mike <Fisher.Mike@epa.gov>
Subject: RE: interpretive statement and follow-up Ex. 5 Attorney Client (AC/DP) question

Ex. 5 AC, DP / Ex. 7(A)

Thanks,
- Joe

Joseph G. Theis
Associate Director
Water Enforcement Division
Office of Enforcement and Compliance Assurance
U.S. EPA (2243A)
1200 Pennsylvania Ave, NW
Washington, D.C. 20460
(202)564-4053

This email may contain deliberative, attorney-client, attorney work product or otherwise privileged material. Do not release under FOIA without appropriate review. If this email has been received by you in error, you are instructed to delete it from your machine and all storage media whether electronic or hard copy.

To: Kelley, Rosemarie[Kelley.Rosemarie@epa.gov]
From: Starfield, Lawrence[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=8A89D6CD217D4254A5879ABECB3F314E-STARFIELD, LAWRENCE]
Sent: Sat 4/6/2019 12:17:59 PM (UTC)
Subject: Ex. 7(A)

FYI. Positive development, I think.

Sent from my iPhone

Begin forwarded message:

From: "Gelber, Bruce (ENRD)" <Bruce.Gelber@usdoj.gov>
Date: April 5, 2019 at 6:55:51 PM EDT
To: "bodine.susan@epa.gov" <bodine.susan@epa.gov>
Cc: "Starfield, Lawrence" <Starfield.Lawrence@epa.gov>, "Traylor, Patrick" <traylor.patrick@epa.gov>, "Douglas, Nathaniel (ENRD)" <Nathaniel.Douglas@usdoj.gov>, "Mariani, Tom (ENRD)" <Tom.Mariani@usdoj.gov>
Subject: Further developments on Ex. 7(A)

Susan: Jeff asked me to find out if you are available for a call on Monday to discuss Ex. 7(A)

Ex. 5 AC/AWP/DP

Please let me know if you have time to talk on Monday. Thanks.

Cc: Patrick, Larry, Nat, Tom

Bruce S. Gelber
Deputy Assistant Attorney General
Environment and Natural Resources Division
U.S. Department of Justice
950 Pennsylvania Avenue, N.W., Room 2609
Washington, D.C. 20530-0001
Phone: (202) 514-4624
Facsimile: (202) 514-0557

CONFIDENTIALITY NOTICE: This communication may contain law enforcement sensitive, privileged attorney/client communications or work

product, and is not subject to disclosure. It is solely for the use of the intended recipients. Unauthorized interception, review, use or disclosure is prohibited. If you believe that you have received this e-mail in error, please notify the sender immediately, and permanently delete the email, any attachments, and all copies from your computer.

To: bruce.gelber@usdoj.gov[bruce.gelber@usdoj.gov]
From: Starfield, Lawrence[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=8A89D6CD217D4254A5879ABECB3F314E-STARFIELD, LAWRENCE]
Sent: Sat 4/6/2019 12:17:13 PM (UTC)
Subject: Re: Further developments on Ex. 7(A)

Thanks, Bruce. This gives me some hope.
Larry

Sent from my iPhone

On Apr 5, 2019, at 6:56 PM, Gelber, Bruce (ENRD) <Bruce.Gelber@usdoj.gov> wrote:

Susan: Jeff asked me to find out if you are available for a call on Monday to discuss Ex. 7(A)

Ex. 5 AC/AWP/DP

Please let me know if you have time to talk on Monday. Thanks.

Cc: Patrick, Larry, Nat, Tom

Bruce S. Gelber
Deputy Assistant Attorney General
Environment and Natural Resources Division
U.S. Department of Justice
950 Pennsylvania Avenue, N.W., Room 2609
Washington, D.C. 20530-0001
Phone: (202) 514-4624
Facsimile: (202) 514-0557

CONFIDENTIALITY NOTICE: This communication may contain law enforcement sensitive, privileged attorney/client communications or work product, and is not subject to disclosure. It is solely for the use of the intended recipients. Unauthorized interception, review, use or disclosure is prohibited. If you believe that you have received this e-mail in error, please notify the sender immediately, and permanently delete the email, any attachments, and all copies from your computer.

To: Koslow, Karin[Koslow.Karin@epa.gov]; Bodine, Susan[bodine.susan@epa.gov]
Cc: Traylor, Patrick[traylor.patrick@epa.gov]; Shiffman, Cari[Shiffman.Cari@epa.gov]; Mirza, Sabah[Mirza.Sabah@epa.gov]; Emmerson, Caroline[Emmerson.Caroline@epa.gov]; Makepeace, Caroline[Makepeace.Caroline@epa.gov]; Porter, Amy[Porter.Amy@epa.gov]; Kelley, Rosemarie[Kelley.Rosemarie@epa.gov]
From: Starfield, Lawrence[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=8A89D6CD217D4254A5879ABECB3F314E-STARFIELD, LAWRENCE]
Sent: Tue 9/10/2019 3:58:12 PM (UTC)
Subject: RE: SEPs fact sheet for Hearing Binder
OECA SEPs in Muni Cases Fact Sheet.9.10.19 w LS comments.docx

Karin,

Ex. 5 AC/DP

Larry

From: Koslow, Karin <Koslow.Karin@epa.gov>
Sent: Tuesday, September 10, 2019 11:26 AM
To: Bodine, Susan <bodine.susan@epa.gov>; Starfield, Lawrence <Starfield.Lawrence@epa.gov>
Cc: Traylor, Patrick <traylor.patrick@epa.gov>; Shiffman, Cari <Shiffman.Cari@epa.gov>; Mirza, Sabah <Mirza.Sabah@epa.gov>; Emmerson, Caroline <Emmerson.Caroline@epa.gov>; Makepeace, Caroline <Makepeace.Caroline@epa.gov>; Porter, Amy <Porter.Amy@epa.gov>; Kelley, Rosemarie <Kelley.Rosemarie@epa.gov>
Subject: SEPs fact sheet for Hearing Binder

Susan – attached is the SEP hearing fact sheet you requested. Many thanks to Caroline and John for drafting.

-Karin

Karin Koslow
Deputy Director, Office of Civil Enforcement
Office of Enforcement and Compliance Assurance
U.S. Environmental Protection Agency
Desk: (202) 564-0171
Cell: Ex. 6
WJC South Room 3142D

From: Bodine, Susan <bodine.susan@epa.gov>
Sent: Friday, September 06, 2019 3:05 PM
To: Kelley, Rosemarie <Kelley.Rosemarie@epa.gov>; Porter, Amy <Porter.Amy@epa.gov>
Cc: Starfield, Lawrence <Starfield.Lawrence@epa.gov>; Traylor, Patrick <traylor.patrick@epa.gov>; Shiffman, Cari <Shiffman.Cari@epa.gov>; Mirza, Sabah <Mirza.Sabah@epa.gov>; Emmerson, Caroline <Emmerson.Caroline@epa.gov>; Koslow, Karin <Koslow.Karin@epa.gov>; Makepeace, Caroline <Makepeace.Caroline@epa.gov>
Subject: RE: Hearing Binder Fact Sheet Check-in

Ex. 5 AC/DP

Can we get it by Tuesday AM?

From: Kelley, Rosemarie <Kelley.Rosemarie@epa.gov>
Sent: Friday, September 6, 2019 2:59 PM
To: Bodine, Susan <bodine.susan@epa.gov>; Porter, Amy <Porter.Amy@epa.gov>

Cc: Starfield, Lawrence <Starfield.Lawrence@epa.gov>; Traylor, Patrick <traylor.patrick@epa.gov>; Shiffman, Cari <Shiffman.Cari@epa.gov>; Mirza, Sabah <Mirza.Sabah@epa.gov>; Emmerson, Caroline <Emmerson.Caroline@epa.gov>; Koslow, Karin <Koslow.Karin@epa.gov>; Makepeace, Caroline <Makepeace.Caroline@epa.gov>
Subject: RE: Hearing Binder Fact Sheet Check-in

Susan –

Ex. 5 AC/DP

When do you want to see a draft?

Rosemarie

From: Bodine, Susan <bodine.susan@epa.gov>
Sent: Friday, September 06, 2019 2:38 PM
To: Kelley, Rosemarie <Kelley.Rosemarie@epa.gov>; Porter, Amy <Porter.Amy@epa.gov>
Cc: Starfield, Lawrence <Starfield.Lawrence@epa.gov>; Traylor, Patrick <traylor.patrick@epa.gov>; Shiffman, Cari <Shiffman.Cari@epa.gov>; Mirza, Sabah <Mirza.Sabah@epa.gov>; Emmerson, Caroline <Emmerson.Caroline@epa.gov>
Subject: FW: Hearing Binder Fact Sheet Check-in

Can we do a new fact sheet on the DOJ SEP policy? For next week (not today).

Susan

From: Rodrick, Christian <rodrick.christian@epa.gov>
Sent: Friday, September 6, 2019 2:30 PM
To: Idsal, Anne <idsal.anne@epa.gov>; Schiermeyer, Corry <schiermeyer.corry@epa.gov>; Bodine, Susan <bodine.susan@epa.gov>; Ross, David P <ross.davidp@epa.gov>; Leopold, Matt (OGC) <Leopold.Matt@epa.gov>; McIntosh, Chad <mcintosh.chad@epa.gov>; Dunn, Alexandra <dunn.alexandra@epa.gov>; Dunlap, David <dunlap.david@epa.gov>; Bolen, Brittany <bolen.brittany@epa.gov>; Kasper, Amanda <Kasper.Amanda@epa.gov>
Cc: Brazauskas, Joseph <brazauskas.joseph@epa.gov>; Kolb, John (JohnMark) <kolb.john@epa.gov>; Struhar, Kirby <struhar.kirby@epa.gov>
Subject: Hearing Binder Fact Sheet Check-in

All,

Thank you all again for all the timely assistance you and your teams have provided OCIR in preparing and updating the Administrator's hearing prep binder. I understand there was a call this week to continually update fact sheets as actions are taken or news arises. Many of your teams have worked to provide me updates on a number of topics already this week, however, in case you have a fact sheet you would like updated in the binder, OCIR needs to have that update by 3:30PM today in order to get it into the Administrator's hearing binder before the weekend. If 3:30 is impossible, let me know and we can update it next week before hearing prep begins. If you have any questions or concerns, just reach out.

Thanks again,

Christian Rodrick
Director of House Relations, OCIR
U.S. Environmental Protection Agency
O: (202) 564-4828
C: Ex. 6

SUPPLEMENTAL ENVIRONMENTAL PROJECTS (SEPs) IN CASES INVOLVING STATE AND LOCAL GOVERNMENTS

BACKGROUND:

- Under EPA's long-standing **Supplemental Environmental Projects (SEP) Policy**[1]**,** in determining the appropriate final penalty amount to accept in settlement, EPA may consider a project that a defendant voluntarily offers to undertake. The project must have a nexus to the environmental requirement that the defendant violated and must not be otherwise required by law.
- SEPs are projects that a defendant volunteers to undertake in settlement that provide additional environmental benefits by reducing human health exposures or environmental impacts or by reducing the likelihood by future violations.
- Examples of SEPs include lead-based paint abatement for low-income housing in the vicinity of a facility with Clean Air Act violations involving lead emissions; purchase of emergency response equipment for the community in which a defendant has violated the Clean Air Act risk management program; and emissions or discharge reductions at a defendant's facility beyond that which is required by law.
- In August 2019, DOJ's Enforcement and Natural Resources Division issued a memorandum expressly disallowing the inclusion of SEPs in cases against governmental entities, with extremely limited potential exceptions.

TALKING POINTS:

- EPA's SEP Policy is unchanged and still in effect, and the Agency continues to support the inclusion of SEPs that meet all the requirements of the Policy in appropriate cases.
- EPA continues to include SEPs in administrative settlements, including those with governmental entities.
- EPA supports SEPs not only because of their additional positive environmental benefits, but also because they are useful in achieving settlements.
- Many defendants prefer a lower civil penalty and the goodwill generated with the community through the performance of SEPs, even if their total expenditure is greater than it would have been had they only paid a civil penalty. State or local governments often request to include SEPs in settlement because local officials and the communities they represent consider the projects to be positive elements in the resolution of violations.

[1] EPA's SEP Final Policy was issued over 20 years ago, in 1998, and was updated in 2015.

To: Emmerson, Caroline[Emmerson.Caroline@epa.gov]; Porter, Amy[Porter.Amy@epa.gov]; Koslow, Karin[Koslow.Karin@epa.gov]; Shiffman, Cari[Shiffman.Cari@epa.gov]
From: Starfield, Lawrence[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=8A89D6CD217D4254A5879ABECB3F314E-STARFIELD, LAWRENCE]
Sent: Mon 9/9/2019 10:14:02 PM (UTC)
Subject: RE: Hearing Binder Fact Sheet Check-in

Good. Thanks.

From: Emmerson, Caroline <Emmerson.Caroline@epa.gov>
Sent: Monday, September 09, 2019 6:05 PM
To: Starfield, Lawrence <Starfield.Lawrence@epa.gov>; Porter, Amy <Porter.Amy@epa.gov>; Koslow, Karin <Koslow.Karin@epa.gov>; Shiffman, Cari <Shiffman.Cari@epa.gov>
Subject: RE: Hearing Binder Fact Sheet Check-in

Larry,

Yes, OCIR defers to us on this.

Thanks,

Caroline

From: Starfield, Lawrence <Starfield.Lawrence@epa.gov>
Sent: Monday, September 09, 2019 5:48 PM
To: Emmerson, Caroline <Emmerson.Caroline@epa.gov>; Porter, Amy <Porter.Amy@epa.gov>; Koslow, Karin <Koslow.Karin@epa.gov>; Shiffman, Cari <Shiffman.Cari@epa.gov>
Subject: FW: Hearing Binder Fact Sheet Check-in

Caroline,

Ex. 5 AC/DP

Thanks.

Larry

From: Bodine, Susan <bodine.susan@epa.gov>
Sent: Monday, September 09, 2019 4:19 PM
To: Starfield, Lawrence <Starfield.Lawrence@epa.gov>
Subject: Re: Hearing Binder Fact Sheet Check-in

I agree with you

Sent from my iPhone
On Sep 9, 2019, at 8:55 AM, Starfield, Lawrence <Starfield.Lawrence@epa.gov> wrote:

> Susan,
>
> **Ex. 5 AC/DP**
>
> Larry
>
> ---
>
> **From:** Starfield, Lawrence
> **Sent:** Friday, September 06, 2019 6:53 PM
> **To:** Emmerson, Caroline <Emmerson.Caroline@epa.gov>
> **Cc:** Kelley, Rosemarie <Kelley.Rosemarie@epa.gov>; Bodine, Susan <bodine.susan@epa.gov>; Porter, Amy

<Porter.Amy@epa.gov>; Traylor, Patrick <traylor.patrick@epa.gov>; Shiffman, Cari <Shiffman.Cari@epa.gov>; Mirza, Sabah <Mirza.Sabah@epa.gov>; Koslow, Karin <Koslow.Karin@epa.gov>; Makepeace, Caroline <Makepeace.Caroline@epa.gov>
Subject: Re: Hearing Binder Fact Sheet Check-in

Ex. 5 AC/DP

Larry

Sent from my iPhone
On Sep 6, 2019, at 4:31 PM, Emmerson, Caroline <Emmerson.Caroline@epa.gov> wrote:

Ex. 5 AC/DP

From: Kelley, Rosemarie <Kelley.Rosemarie@epa.gov>
Sent: Friday, September 06, 2019 3:27 PM
To: Bodine, Susan <bodine.susan@epa.gov>; Porter, Amy <Porter.Amy@epa.gov>
Cc: Starfield, Lawrence <Starfield.Lawrence@epa.gov>; Traylor, Patrick <traylor.patrick@epa.gov>; Shiffman, Cari <Shiffman.Cari@epa.gov>; Mirza, Sabah <Mirza.Sabah@epa.gov>; Emmerson, Caroline <Emmerson.Caroline@epa.gov>; Koslow, Karin <Koslow.Karin@epa.gov>; Makepeace, Caroline <Makepeace.Caroline@epa.gov>
Subject: RE: Hearing Binder Fact Sheet Check-in

We will do our best to get it to you on Tuesday morning.

Rosemarie

From: Bodine, Susan <bodine.susan@epa.gov>
Sent: Friday, September 06, 2019 3:05 PM
To: Kelley, Rosemarie <Kelley.Rosemarie@epa.gov>; Porter, Amy <Porter.Amy@epa.gov>
Cc: Starfield, Lawrence <Starfield.Lawrence@epa.gov>; Traylor, Patrick <traylor.patrick@epa.gov>; Shiffman, Cari <Shiffman.Cari@epa.gov>; Mirza, Sabah <Mirza.Sabah@epa.gov>; Emmerson, Caroline <Emmerson.Caroline@epa.gov>; Koslow, Karin <Koslow.Karin@epa.gov>; Makepeace, Caroline <Makepeace.Caroline@epa.gov>
Subject: RE: Hearing Binder Fact Sheet Check-in

Ex. 5 AC/DP

Can we get it by Tuesday AM?

From: Kelley, Rosemarie <Kelley.Rosemarie@epa.gov>
Sent: Friday, September 6, 2019 2:59 PM
To: Bodine, Susan <bodine.susan@epa.gov>; Porter, Amy <Porter.Amy@epa.gov>
Cc: Starfield, Lawrence <Starfield.Lawrence@epa.gov>; Traylor, Patrick <traylor.patrick@epa.gov>; Shiffman, Cari <Shiffman.Cari@epa.gov>; Mirza, Sabah <Mirza.Sabah@epa.gov>; Emmerson, Caroline <Emmerson.Caroline@epa.gov>; Koslow, Karin <Koslow.Karin@epa.gov>; Makepeace, Caroline <Makepeace.Caroline@epa.gov>
Subject: RE: Hearing Binder Fact Sheet Check-in

Susan –

Ex. 5 AC/DP

Ex. 5 AC/DP

When do you want to see a draft?

Rosemarie

From: Bodine, Susan <bodine.susan@epa.gov>
Sent: Friday, September 06, 2019 2:38 PM
To: Kelley, Rosemarie <Kelley.Rosemarie@epa.gov>; Porter, Amy <Porter.Amy@epa.gov>
Cc: Starfield, Lawrence <Starfield.Lawrence@epa.gov>; Traylor, Patrick <traylor.patrick@epa.gov>; Shiffman, Cari <Shiffman.Cari@epa.gov>; Mirza, Sabah <Mirza.Sabah@epa.gov>; Emmerson, Caroline <Emmerson.Caroline@epa.gov>
Subject: FW: Hearing Binder Fact Sheet Check-in

Can we do a new fact sheet on the DOJ SEP policy? For next week (not today).

Susan

From: Rodrick, Christian <rodrick.christian@epa.gov>
Sent: Friday, September 6, 2019 2:30 PM
To: Idsal, Anne <idsal.anne@epa.gov>; Schiermeyer, Corry <schiermeyer.corry@epa.gov>; Bodine, Susan <bodine.susan@epa.gov>; Ross, David P <ross.davidp@epa.gov>; Leopold, Matt (OGC) <Leopold.Matt@epa.gov>; McIntosh, Chad <mcintosh.chad@epa.gov>; Dunn, Alexandra <dunn.alexandra@epa.gov>; Dunlap, David <dunlap.david@epa.gov>; Bolen, Brittany <bolen.brittany@epa.gov>; Kasper, Amanda <Kasper.Amanda@epa.gov>
Cc: Brazauskas, Joseph <brazauskas.joseph@epa.gov>; Kolb, John (JohnMark) <kolb.john@epa.gov>; Struhar, Kirby <struhar.kirby@epa.gov>
Subject: Hearing Binder Fact Sheet Check-in

All,

Thank you all again for all the timely assistance you and your teams have provided OCIR in preparing and updating the Administrator's hearing prep binder. I understand there was a call this week to continually update fact sheets as actions are taken or news arises. Many of your teams have worked to provide me updates on a number of topics already this week, however, in case you have a fact sheet you would like updated in the binder, OCIR needs to have that update by 3:30PM today in order to get it into the Administrator's hearing binder before the weekend. If 3:30 is impossible, let me know and we can update it next week before hearing prep begins. If you have any questions or concerns, just reach out.

Thanks again,

Christian Rodrick
Director of House Relations, OCIR
U.S. Environmental Protection Agency
O: (202) 564-4828
C: Ex. 6

To: Bailey-Morton, Ethel[Bailey-Morton.Ethel@epa.gov]
From: Starfield, Lawrence[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=8A89D6CD217D4254A5879ABECB3F314E-STARFIELD, LAWRENCE]
Sent: Fri 9/6/2019 10:36:55 PM (UTC)
Subject: Fwd: Hearing Binder Fact Sheet Check-in

Please print and put it on my chair. Thanks.

Sent from my iPhone

Begin forwarded message:

From: "Kelley, Rosemarie" <Kelley.Rosemarie@epa.gov>
Date: September 6, 2019 at 5:02:22 PM EDT
To: "Emmerson, Caroline" <Emmerson.Caroline@epa.gov>, "Bodine, Susan" <bodine.susan@epa.gov>, "Porter, Amy" <Porter.Amy@epa.gov>
Cc: "Starfield, Lawrence" <Starfield.Lawrence@epa.gov>, "Traylor, Patrick" <traylor.patrick@epa.gov>, "Shiffman, Cari" <Shiffman.Cari@epa.gov>, "Mirza, Sabah" <Mirza.Sabah@epa.gov>, "Koslow, Karin" <Koslow.Karin@epa.gov>, "Makepeace, Caroline" <Makepeace.Caroline@epa.gov>
Subject: RE: Hearing Binder Fact Sheet Check-in

We will be happy to do that.

From: Emmerson, Caroline <Emmerson.Caroline@epa.gov>
Sent: Friday, September 06, 2019 4:32 PM
To: Kelley, Rosemarie <Kelley.Rosemarie@epa.gov>; Bodine, Susan <bodine.susan@epa.gov>; Porter, Amy <Porter.Amy@epa.gov>
Cc: Starfield, Lawrence <Starfield.Lawrence@epa.gov>; Traylor, Patrick <traylor.patrick@epa.gov>; Shiffman, Cari <Shiffman.Cari@epa.gov>; Mirza, Sabah <Mirza.Sabah@epa.gov>; Koslow, Karin <Koslow.Karin@epa.gov>; Makepeace, Caroline <Makepeace.Caroline@epa.gov>
Subject: RE: Hearing Binder Fact Sheet Check-in

Ex. 5 AC/DP

From: Kelley, Rosemarie <Kelley.Rosemarie@epa.gov>
Sent: Friday, September 06, 2019 3:27 PM
To: Bodine, Susan <bodine.susan@epa.gov>; Porter, Amy <Porter.Amy@epa.gov>
Cc: Starfield, Lawrence <Starfield.Lawrence@epa.gov>; Traylor, Patrick <traylor.patrick@epa.gov>; Shiffman, Cari <Shiffman.Cari@epa.gov>; Mirza, Sabah <Mirza.Sabah@epa.gov>; Emmerson, Caroline <Emmerson.Caroline@epa.gov>; Koslow, Karin <Koslow.Karin@epa.gov>; Makepeace, Caroline <Makepeace.Caroline@epa.gov>
Subject: RE: Hearing Binder Fact Sheet Check-in

We will do our best to get it to you on Tuesday morning.

Rosemarie

From: Bodine, Susan <bodine.susan@epa.gov>
Sent: Friday, September 06, 2019 3:05 PM
To: Kelley, Rosemarie <Kelley.Rosemarie@epa.gov>; Porter, Amy <Porter.Amy@epa.gov>
Cc: Starfield, Lawrence <Starfield.Lawrence@epa.gov>; Traylor, Patrick <traylor.patrick@epa.gov>; Shiffman, Cari <Shiffman.Cari@epa.gov>; Mirza, Sabah <Mirza.Sabah@epa.gov>; Emmerson, Caroline <Emmerson.Caroline@epa.gov>; Koslow, Karin <Koslow.Karin@epa.gov>; Makepeace, Caroline <Makepeace.Caroline@epa.gov>
Subject: RE: Hearing Binder Fact Sheet Check-in

Neutral
Yes, we continue to follow our policy
I don't know about coordination – We can use language from their memo without characterizing it.
Can we get it by Tuesday AM?

From: Kelley, Rosemarie <Kelley.Rosemarie@epa.gov>
Sent: Friday, September 6, 2019 2:59 PM
To: Bodine, Susan <bodine.susan@epa.gov>; Porter, Amy <Porter.Amy@epa.gov>
Cc: Starfield, Lawrence <Starfield.Lawrence@epa.gov>; Traylor, Patrick <traylor.patrick@epa.gov>; Shiffman, Cari <Shiffman.Cari@epa.gov>; Mirza, Sabah <Mirza.Sabah@epa.gov>; Emmerson, Caroline <Emmerson.Caroline@epa.gov>; Koslow, Karin <Koslow.Karin@epa.gov>; Makepeace, Caroline <Makepeace.Caroline@epa.gov>
Subject: RE: Hearing Binder Fact Sheet Check-in

Susan –

Ex. 5 AC/DP

When do you want to see a draft?

Rosemarie

From: Bodine, Susan <bodine.susan@epa.gov>
Sent: Friday, September 06, 2019 2:38 PM
To: Kelley, Rosemarie <Kelley.Rosemarie@epa.gov>; Porter, Amy <Porter.Amy@epa.gov>
Cc: Starfield, Lawrence <Starfield.Lawrence@epa.gov>; Traylor, Patrick <traylor.patrick@epa.gov>; Shiffman, Cari <Shiffman.Cari@epa.gov>; Mirza, Sabah <Mirza.Sabah@epa.gov>; Emmerson, Caroline <Emmerson.Caroline@epa.gov>
Subject: FW: Hearing Binder Fact Sheet Check-in

Can we do a new fact sheet on the DOJ SEP policy? For next week (not today).

Susan

From: Rodrick, Christian <rodrick.christian@epa.gov>
Sent: Friday, September 6, 2019 2:30 PM
To: Idsal, Anne <idsal.anne@epa.gov>; Schiermeyer, Corry <schiermeyer.corry@epa.gov>; Bodine, Susan <bodine.susan@epa.gov>; Ross, David P <ross.davidp@epa.gov>; Leopold, Matt (OGC) <Leopold.Matt@epa.gov>; McIntosh, Chad <mcintosh.chad@epa.gov>; Dunn, Alexandra <dunn.alexandra@epa.gov>; Dunlap, David <dunlap.david@epa.gov>; Bolen, Brittany <bolen.brittany@epa.gov>; Kasper, Amanda <Kasper.Amanda@epa.gov>
Cc: Brazauskas, Joseph <brazauskas.joseph@epa.gov>; Kolb, John (JohnMark) <kolb.john@epa.gov>; Struhar, Kirby <struhar.kirby@epa.gov>
Subject: Hearing Binder Fact Sheet Check-in

All,

Thank you all again for all the timely assistance you and your teams have provided OCIR in preparing and updating the Administrator's hearing prep binder. I understand there was a call this week to continually update fact sheets as actions are taken or news arises. Many of your teams have worked to provide me updates on a number of topics already this week, however, in case you have a fact sheet you would like updated in the binder, OCIR needs to have that update by 3:30PM today in order to get it into the Administrator's hearing binder before the weekend. If 3:30 is impossible, let me know and we can update it next week before hearing prep begins. If you have any questions or concerns, just reach out.

Thanks again,

Christian Rodrick
Director of House Relations, OCIR
U.S. Environmental Protection Agency
O: (202) 564-4828
C: Ex. 6

To: Kelley, Rosemarie[Kelley.Rosemarie@epa.gov]; Koslow, Karin[Koslow.Karin@epa.gov]
From: Starfield, Lawrence[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=8A89D6CD217D4254A5879ABECB3F314E-STARFIELD, LAWRENCE]
Sent: Wed 8/28/2019 9:56:00 PM (UTC)
Subject: FW: Ex. 5 Attorney Client (AC)

Rosemarie,

Ex. 5 Attorney Client (AC)

Larry
This message is CONFIDENTIAL, and may contain legally privileged information. If you are not the intended recipient, or believe you received this communication in error, please delete it immediately, do not copy, and notify the sender. Thank you.

From: Gelber, Bruce (ENRD) <Bruce.Gelber@usdoj.gov>
Sent: Wednesday, August 28, 2019 5:11 PM
To: Starfield, Lawrence <Starfield.Lawrence@epa.gov>
Subject: FW: Ex. 5 Attorney Client (AC)

Larry – see below. Ex. 5 Attorney Client (AC)

From: Gallagher, Mark (ENRD) <MGallagher@ENRD.USDOJ.GOV>
Sent: Wednesday, August 28, 2019 5:05 PM
To: Gelber, Bruce (ENRD) <BGelber@ENRD.USDOJ.GOV>; Mariani, Tom (ENRD) <TMariani@ENRD.USDOJ.GOV>; Dworkin, Karen (ENRD) <KDworkin@ENRD.USDOJ.GOV>; Donohue, Brian (ENRD) <BDonohue@ENRD.USDOJ.GOV>; Carroll, Thomas (ENRD) <TCarroll@ENRD.USDOJ.GOV>; Friedman, Henry (ENRD) <HFriedman@ENRD.USDOJ.GOV>
Cc: Douglas, Nathaniel (ENRD) <NDouglas@ENRD.USDOJ.GOV>; Mahan, Ellen (ENRD) <EMahan@ENRD.USDOJ.GOV>
Subject: RE: Ex. 5 Attorney Client (AC)

Bruce

Ex. 5 Attorney Client (AC)

m

From: Gelber, Bruce (ENRD) <BGelber@ENRD.USDOJ.GOV>
Sent: Wednesday, August 28, 2019 4:59 PM
To: Mariani, Tom (ENRD) <TMariani@ENRD.USDOJ.GOV>; Dworkin, Karen (ENRD) <KDworkin@ENRD.USDOJ.GOV>; Gallagher, Mark (ENRD) <MGallagher@ENRD.USDOJ.GOV>; Donohue, Brian (ENRD) <BDonohue@ENRD.USDOJ.GOV>; Carroll, Thomas (ENRD) <TCarroll@ENRD.USDOJ.GOV>; Friedman, Henry (ENRD) <HFriedman@ENRD.USDOJ.GOV>
Cc: Douglas, Nathaniel (ENRD) <NDouglas@ENRD.USDOJ.GOV>; Mahan, Ellen (ENRD) <EMahan@ENRD.USDOJ.GOV>
Subject: FW: Ex. 5 Attorney Client (AC)

Gang: I spoke to Larry this afternoon. Here is where we came out.

Ex. 5 Attorney Client (AC)

Ex. 5 Attorney Client (AC)

From: Gelber, Bruce (ENRD)
Sent: Wednesday, August 28, 2019 2:11 PM
To: Starfield, Lawrence <Starfield.Lawrence@epa.gov>
Subject: Ex. 5 Attorney Client (AC)

Ex. 5 Attorney Client (AC)

I look forward to talking to you at 3:30. Call me when you're ready.

Bruce S. Gelber
Deputy Assistant Attorney General
Environment and Natural Resources Division
U.S. Department of Justice
950 Pennsylvania Avenue, N.W., Room 2609
Washington, D.C. 20530-0001
Phone: (202) 514-4624
Facsimile: (202) 514-0557

CONFIDENTIALITY NOTICE: This communication may contain law enforcement sensitive, privileged attorney/client communications or work product, and is not subject to disclosure. It is solely for the use of the intended recipients. Unauthorized interception, review, use or disclosure is prohibited. If you believe that you have received this e-mail in error, please notify the sender immediately, and permanently delete the email, any attachments, and all copies from your computer.

To: Kelley, Rosemarie[Kelley.Rosemarie@epa.gov]; sullivan.greg@epa.gov[sullivan.greg@epa.gov]
From: Starfield, Lawrence[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=8A89D6CD217D4254A5879ABECB3F314E-STARFIELD, LAWRENCE]
Sent: Tue 10/2/2018 4:48:57 PM (UTC)

Ex. 5 AC / Ex. 7(A)

FYI. Hopefully, you have something better suited to a briefing of Dave Ross.

From: Shiffman, Cari
Sent: Tuesday, October 02, 2018 9:39 AM
To: Starfield, Lawrence <Starfield.Lawrence@epa.gov>
Cc: Branning, Hannah <Branning.Hannah@epa.gov>

Ex. 5 AC / Ex. 7(A)

Larry,

This is **Ex. 5 AC / Ex. 7(A)** mentioned this morning. I have not shared it yet with OW.

Thanks,

Cari Shiffman, Chief of Staff
U.S. Environmental Protection Agency
Office of Enforcement and Compliance Assurance
Office: (202) 564-2898 | Mobile: (202) 823-3277

From: Baptista, Chrisna
Sent: Monday, October 01, 2018 3:13 PM
To: Shiffman, Cari <Shiffman.Cari@epa.gov>
Subject: **Ex. 5 AC / Ex. 7(A)**

Chrisna Baptista, Attorney-Adviser
Office of Civil Enforcement
Phone: (202) 564-4272
E-mail: baptista.chrisna@epa.gov

To: bruce.gelber@usdoj.gov[bruce.gelber@usdoj.gov]
From: Starfield, Lawrence[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=8A89D6CD217D4254A5879ABECB3F314E-STARFIELD, LAWRENCE]
Sent: Thur 8/22/2019 11:50:37 AM (UTC)
Subject: Re: confidential

Thanks.

Sent from my iPhone

> On Aug 21, 2019, at 7:54 PM, Gelber, Bruce (ENRD) <Bruce.Gelber@usdoj.gov> wrote:
>

Ex. 5 AC/DP

>
> -----Original Message-----
> From: Starfield, Lawrence <Starfield.Lawrence@epa.gov>
> Sent: Wednesday, August 21, 2019 8:43 AM
> To: Gelber, Bruce (ENRD) <BGelber@ENRD.USDOJ.GOV>
> Subject: confidential
>
> Bruce,
>
> Rosemarie is trying to set up some time with you and Tom for us to discuss next steps.
>

Ex. 5 AC/DP

>
> Larry
>
> This message is CONFIDENTIAL, and may contain legally privileged information. If you are not the intended recipient, or believe you received this communication in error, please delete it immediately, do not copy, and notify the sender. Thank you.
>
>
>
> -----Original Message-----
> From: Clark, Jeffrey (ENRD) <jbc1@usdoj.gov>
> Sent: Tuesday, August 20, 2019 10:01 PM
> To: Bodine, Susan <bodine.susan@epa.gov>
> Cc: bruce.gelber@usdoj.gov; Starfield, Lawrence <Starfield.Lawrence@epa.gov>
> Subject: Re: Emailing: ENRD State and Local SEP Memo Internal 8 20 19 Version Shared with EPA.pdf, ENRD State and Local SEP Memo Public 8 21 19.pdf

Ex. 5 AC/AWP/DP

> Jeff
>
> Sent from my iPhone
>
>> On Aug 20, 2019, at 9:46 PM, Bodine, Susan <bodine.susan@epa.gov> wrote:

Ex. 5 AC/AWP/DP

>> Susan
>>
>> Sent from my iPad
>>
>>> On Aug 20, 2019, at 7:58 PM, Clark, Jeffrey (ENRD) <jbc1@usdoj.gov> wrote:
>>>
>>> PRIVILEGED & CONFIDENTIAL
>>> ATTORNEY WORK PRODUCT
>>> DELIBERATIVE -- FOIA-EXEMPT
>>>

Ex. 5 AC/AWP/DP

Ex. 5 AC/AWP/DP

>>> Jeff
>>>
>>>
>>> -----Original Message-----
>>> From: Bodine, Susan <bodine.susan@epa.gov>
>>> Sent: Tuesday, August 20, 2019 5:34 PM
>>> To: Clark, Jeffrey (ENRD) <JClark@ENRD.USDOJ.GOV>
>>> Cc: Gelber, Bruce (ENRD) <BGelber@ENRD.USDOJ.GOV>; Starfield,
>>> Lawrence <Starfield.Lawrence@epa.gov>
>>> Subject: RE: Emailing: ENRD State and Local SEP Memo Internal 8 20 19
>>> Version Shared with EPA.pdf, ENRD State and Local SEP Memo Public 8
>>> 21 19.pdf
>>>
>>> Jeff,
>>>

Ex. 5 AC/AWP/DP

Ex. 5 AC/AWP/DP

>>>
>>> Susan
>>>
>>>
>>> Susan Parker Bodine
>>> Assistant Administrator
>>> Office of Enforcement and Compliance Assurance
>>> 202-564-2440
>>>
>>>
>>> This message is CONFIDENTIAL, and may contain legally privileged information. If you are not the intended recipient, or believe you received this communication in error, please delete it immediately, do not copy, and notify the sender. Thank you.
>>>
>>>
>>>
>>> -----Original Message-----
>>> From: Clark, Jeffrey (ENRD) <jbc1@usdoj.gov>
>>> Sent: Tuesday, August 20, 2019 11:07 AM
>>> To: Bodine, Susan <bodine.susan@epa.gov>
>>> Cc: bruce.gelber@usdoj.gov
>>> Subject: Emailing: ENRD State and Local SEP Memo Internal 8 20 19
>>> Version Shared with EPA.pdf, ENRD State and Local SEP Memo Public 8

>>> 21 19.pdf
>>>
>>> Susan,
>>>

Ex. 5 AC/AWP/DP

>>>
>>> Jeff

To: Bodine, Susan[bodine.susan@epa.gov]
From: Starfield, Lawrence[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=8A89D6CD217D4254A5879ABECB3F314E-STARFIELD, LAWRENCE]
Sent: Wed 8/21/2019 11:52:27 AM (UTC)
Subject: Re: Emailing: ENRD State and Local SEP Memo Internal 8 20 19 Version Shared with EPA.pdf, ENRD State and Local SEP Memo Public 8 21 19.pdf

Ex. 5 AC/DP

Larry

Sent from my iPhone

On Aug 20, 2019, at 8:30 PM, Bodine, Susan <bodine.susan@epa.gov> wrote:

Ex. 5 AC/DP

Sent from my iPad

Begin forwarded message:

From: "Clark, Jeffrey (ENRD)" <jbc1@usdoj.gov>
Date: August 20, 2019 at 7:57:47 PM EDT
To: "Bodine, Susan" <bodine.susan@epa.gov>
Cc: "Gelber, Bruce (ENRD)" <Bruce.Gelber@usdoj.gov>, "Starfield, Lawrence" <Starfield.Lawrence@epa.gov>
Subject: RE: Emailing: ENRD State and Local SEP Memo Internal 8 20 19 Version Shared with EPA.pdf, ENRD State and Local SEP Memo Public 8 21 19.pdf

PRIVILEGED & CONFIDENTIAL
ATTORNEY WORK PRODUCT
DELIBERATIVE -- FOIA-EXEMPT

Ex. 5 AC/AWP/DP

Ex. 5 AC/AWP/DP

Jeff

-----Original Message-----
From: Bodine, Susan <bodine.susan@epa.gov>
Sent: Tuesday, August 20, 2019 5:34 PM
To: Clark, Jeffrey (ENRD) <JClark@ENRD.USDOJ.GOV>
Cc: Gelber, Bruce (ENRD) <BGelber@ENRD.USDOJ.GOV>; Starfield, Lawrence <Starfield.Lawrence@epa.gov>
Subject: RE: Emailing: ENRD State and Local SEP Memo Internal 8 20 19 Version Shared with EPA.pdf, ENRD State and Local SEP Memo Public 8 21 19.pdf

Jeff,

Ex. 5 AC/AWP/DP

Susan

Susan Parker Bodine
Assistant Administrator
Office of Enforcement and Compliance Assurance
202-564-2440

This message is CONFIDENTIAL, and may contain legally privileged information. If you are not the intended recipient, or believe you received this communication in error, please delete it immediately, do not copy, and notify the sender. Thank you.

-----Original Message-----
From: Clark, Jeffrey (ENRD) <jbc1@usdoj.gov>
Sent: Tuesday, August 20, 2019 11:07 AM
To: Bodine, Susan <bodine.susan@epa.gov>
Cc: bruce.gelber@usdoj.gov
Subject: Emailing: ENRD State and Local SEP Memo Internal 8 20 19 Version Shared with EPA.pdf, ENRD State and Local SEP Memo Public 8 21 19.pdf

Susan,

Ex. 5 AC/AWP/DP

Jeff

To: Kelley, Rosemarie[Kelley.Rosemarie@epa.gov]
Cc: Traylor, Patrick[traylor.patrick@epa.gov]; Bodine, Susan[bodine.susan@epa.gov]
From: Starfield, Lawrence[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=8A89D6CD217D4254A5879ABECB3F314E-STARFIELD, LAWRENCE]
Sent: Fri 9/15/2017 10:39:56 PM (UTC)
Subject: Re: Monday's call with DOJ

Thanks. FYI, Ex. 6 Personal Privacy (PP) and will miss the OCE update and DOJ call.

Larry

Sent from my iPhone

On Sep 15, 2017, at 6:26 PM, Kelley, Rosemarie <Kelley.Rosemarie@epa.gov> wrote:

Larry -

Here is what DOJ plans to raise on Monday:

Ex. 5 Attorney Client (AC)

To: Payne, James[payne.james@epa.gov]; Coleman, Sam[Coleman.Sam@epa.gov]
Cc: Kelley, Rosemarie[Kelley.Rosemarie@epa.gov]; McDonald, Scott[mcdonald.scott@epa.gov]
From: Starfield, Lawrence[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=8A89D6CD217D4254A5879ABECB3F314E-STARFIELD, LAWRENCE]
Sent: Fri 9/22/2017 9:34:50 PM (UTC)
Subject: RE: *LARRY - Houston and Corpus Christi

Jim,

Just got back to my office and saw your emails. Glad you and DOJ are working out an approach. Please keep us posted.

Larry

From: Payne, James
Sent: Friday, September 22, 2017 5:21 PM
To: Coleman, Sam <Coleman.Sam@epa.gov>; Starfield, Lawrence <Starfield.Lawrence@epa.gov>
Cc: Kelley, Rosemarie <Kelley.Rosemarie@epa.gov>; McDonald, Scott <mcdonald.scott@epa.gov>
Subject: Re: *LARRY - Houston and Corpus Christi

LARRY - an update is that Sam and I are discussing w DOJ another approach.

Sent from my iPhone
On Sep 22, 2017, at 3:37 PM, Payne, James <payne.james@epa.gov> wrote:

> ENRD front office is 202-514-2701.
>
> My suggestion is a call w the involved DOJ managers, Larry and Sam. Checking now for Larry's availability.
>
> Jim
> 214-490-6707 cell
>
> Sent from my iPhone
> On Sep 22, 2017, at 3:33 PM, Coleman, Sam <Coleman.Sam@epa.gov> wrote:

Ex. 5 Deliberative Process (DP)

> > Samuel Coleman, P. E.,
> > Deputy Regional Administrator
> >
> > 214.665.2100 Ofc
> > 214.665. 3110 Desk
> > 214.665.2016 Cell
> >
> > Coleman.sam@epa.gov
> >
> > Sent from my iPhone
> > On Sep 22, 2017, at 4:01 PM, Payne, James <payne.james@epa.gov> wrote:
> >
> > > Larry - would you be available for a call this aft w Nat and Tom at DOJ to consult on this? They would be available. I've had a series of calls w them.
> > >
> > > Sam - could include you as well, if your DC travel schedule today allowed.
> > >
> > > Jim
> > > 214-490-6707 cell

Sent from my iPhone
Begin forwarded message:

From: payne.james@epa.gov
Date: September 21, 2017 at 3:58:37 PM CDT
To: Nathaniel.Douglas@usdoj.gov, Thomas.Carroll@USDOJ.GOV
Cc: Scott McDonald <mcdonald.scott@epa.gov>, Denton.Loren@epa.gov
Subject: Houston and Corpus Christi

As discussed.

Houston and Corpus Christi – Talking Points

Ex. 5 AC/AWP

Sent from my iPhone

To: Bodine, Susan[bodine.susan@epa.gov]; Starfield, Lawrence[Starfield.Lawrence@epa.gov]; Traylor, Patrick[traylor.patrick@epa.gov]
Cc: Mirza, Sabah[Mirza.Sabah@epa.gov]
From: Shiffman, Cari[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=645F74D11EEC4EBA9337CB5734AD6098-SHIFFMAN, CARI]
Sent: Fri 8/9/2019 7:14:39 PM (UTC)
Subject: Scanned Signed SEP Memo
Supplemental Environmental Projects in Settlements with State and Local Governments (Aug. 9, 2019).pdf

Susan,

Attached is the signed SEP memo.

Claire.Murray@usdoj.gov
jbc1@usdoj.gov

Thanks,

Cari Shiffman, Chief of Staff
U.S. Environmental Protection Agency
Office of Enforcement and Compliance Assurance
Office: (202) 564-2898 | Mobile: (202) 823-3277

Subject: SEP memo
Priority: Normal
Status: Not Started
Percent Complete: 0%
Owner: Traylor, Patrick

Larry can call Bruce

Ex. 5 Attorney Client (AC)

Subject: DOJ SEP update
Priority: Normal
Status: Completed
Percent Complete: 100%
Owner: Traylor, Patrick

Ex. 5 Attorney Client (AC)

To: Traylor, Patrick[traylor.patrick@epa.gov]
From: InsideEPA.com[insideepa-alerts@iwpnews.com]
Sent: Fri 9/20/2019 11:27:10 AM (UTC)
Subject: The Morning Headlines from InsideEPA.com -- September 20, 2019

September 20, 2019

The Weekly Focus

DOJ Weighs 'Broader' SEP Limits As New Policy Forces Renegotiations

A top Justice Department (DOJ) official is considering additional "broader" limits on the use of popular supplemental environmental projects (SEPs) as a way to mitigate penalties in enforcement settlements after DOJ last month curbed their use in municipal settlements, forcing renegotiation of some pending deals and likely curbing future settlements that would implement EPA's upcoming lead and copper drinking water rule.

Latest News

Agencies Defend Legal Basis For Scrapping California Auto GHG Waiver

EPA and the Transportation Department (DOT) are defending the legal basis for their just-issued rule revoking California's power to set its own vehicle greenhouse gas limits, asserting the state is preempted by fuel economy law and lacks "compelling and extraordinary" conditions needed to receive such authority under the Clean Air Act.

Science Rule Schedule Slips As EPA Readies Supplemental, Wheeler Says

EPA Administrator Andrew Wheeler told the House science committee Sept. 19 that the agency's schedule for issuing its controversial rule barring regulators from relying on scientific research that is not published has slipped as the agency is preparing to issue a supplemental proposal in early 2020.

Governors Press Congress To Back PFAS Measures In Defense Bill

A bipartisan group of 15 governors is pressing leaders of the House and Senate Armed Services committees to back measures in pending defense authorization legislation that would require EPA and the Defense Department (DOD) to set policies to regulate the chemicals, curb releases and clean up contamination from per- and polyfluoroalkyl substances (PFAS).

CARB Pledges To Enforce Current Auto GHG Rules Despite EPA Preemption

California Air Resources Board (CARB) officials say they will continue to enforce the state's strict vehicle greenhouse gas standards during litigation over the Trump administration's just-issued revocation of the state's Clean Air Act preemption waiver allowing it to set its own requirements.

EPA, NHTSA Release Final Rule Revoking California Auto GHG Authority

EPA and the National Highway Traffic Safety Administration (NHTSA) have released the text of their final regulation revoking California's authority to enforce auto greenhouse gas and zero-emission vehicle (ZEV) standards, with administration officials arguing the step is necessary to preserve a single set of national requirements.

Daily Feed

Trump says EPA to cite San Francisco over homeless pollution

The president's remarks come as the White House is engaged in a heated confrontation with California over vehicle greenhouse gas standards.

EPA Gold King mine spill suits might see three-part trial starting in 2021

Litigation over the 2015 Gold King spill is not expected to go to trial until the summer of 2021 under a new plan that would split its 'complex' proceedings into three parts.

OMB completes review of proposed DOE mercury storage fees rule
The Energy Department's proposed elemental mercury storage fees rule is part of a program to designate a facility for long-term storage of the substance under a 2008 law banning the export of mercury.

EPA, DOJ announce $47 million pact with Hyundai over illegal engines
The government says that the vehicle manufacturer illegally "stockpiled" thousands of engines with outdated emission controls and later sold them in heavy construction equipment.

Ewire: EPA, DOT detail rule to scrap California auto GHG power
In today's Ewire: The agencies' rule will "help ensure there will be one, and only one, set of national fuel economy and greenhouse gas emission standards for vehicles," they argue.

Environmentalists sue EPA over New Mexico stormwater
"We are disappointed that for years EPA has failed to take action to protect New Mexicans' public health and environment and require that these toxic discharges be controlled and monitored."

Environment Next

Interview
EDF Said Environmental 'Crisis' Requires Policies, Voluntary Programs
As the head of Environmental Defense Fund's (EDF) business partnerships program, Tom Murray has seen industry's trend toward sustainability grow significantly, including companies pursuing voluntary emissions cuts, use of safer chemicals, and a growing focus on addressing climate change.

States See Climate Programs Building 'Infrastructure' For Future Federal Plan
BOSTON -- State officials pushing aggressive green energy mandates and opposing EPA's rule rollbacks see their programs as "infrastructure" for complying with future federal rules, echoing a belief from some Democrats and environmentalists that states will be unable to meet their climate goals without Democrats retaking the White House.

Read all the latest EPA news, analysis and documents →

EDITORIAL CONTACT
703-562-8763
E-MAIL →

CUSTOMER SERVICE
703-416-8505
E-MAIL →

Site Licenses Available
Want to share access to InsideEPA.com with your colleagues? We have economical site license packages available to fit any size organization, from a few people at one location to company-wide access. For more information on how you can get greater access to InsideEPA.com for your office, contact our Online Customer Service department at 703-416-8505 or iepa@iwpnews.com.

Please do not respond to this e-mail, as it was sent from an unmonitored mailbox. If you have a customer service inquiry, please contact us at iepa@iwpnews.com .

UNSUBSCRIBE If you no longer wish to receive these messages, you can unsubscribe by clicking here.

Mailing address: 1919 South Eads Street, Suite 100, Arlington VA 22202

Telephone: 703-416-8500 or 1-800-424-9068

Copyright © 2019 Inside Washington Publishers. All rights reserved About Us | Privacy Policy

To: Bodine, Susan[bodine.susan@epa.gov]
Cc: Traylor, Patrick[traylor.patrick@epa.gov]; Emmerson, Caroline[Emmerson.Caroline@epa.gov]; Voyles, Travis[Voyles.Travis@epa.gov]; Levine, Carolyn[Levine.Carolyn@epa.gov]
From: Struhar, Kirby[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=BA1AE65C0F644807834401D6C548A1C6-STRUHAR, KI]
Sent: Mon 9/23/2019 5:32:01 PM (UTC)
Subject: OECA Final Fact Sheets
OECA 9.18.zip

Hi Susan,

I hope this finds you well and that you enjoyed your weekend. Please find attached OECA's final fact sheets from the Administrator's hearing last week. Feel free to let me know if you have any questions, and have a great rest of your day!

Best,

Kirby Struhar
Special Assistant, Office of Congressional and Intergovernmental Relations
U.S. Environmental Protection Agency
202-564-7819

SUPPLEMENTAL ENVIRONMENTAL PROJECTS (SEPs) IN CASES INVOLVING STATE AND LOCAL GOVERNMENTS

BACKGROUND:

- **Supplemental Environmental Projects (SEP)** are projects that a defendant volunteers to undertake in settlement that provide additional environmental benefits by reducing human health exposures or environmental impacts or by reducing the likelihood by future violations. EPA considers SEPs when setting penalty demands.
- Examples of SEPs include lead-based paint abatement for low-income housing in the vicinity of a facility with Clean Air Act violations involving lead emissions; purchase of emergency response equipment for the community in which a defendant has violated the Clean Air Act risk management program; and emissions or discharge reductions at a defendant's facility beyond that which is required by law.
- EPA first issued the SEP Policy in 1991, formalizing the practice of including environmentally beneficial projects in settlements starting in the mid-1980s. The practice of allowing SEPs has been reviewed and approved both by EPA's Office of General Counsel and DOJ's Office of Legal Counsel. EPA most recently updated its SEP policy in 2015. Under EPA's policy, a SEP cannot require a payment to a third party.
- In August 2019, DOJ's Enforcement and Natural Resources Division issued a memorandum expressly disallowing the inclusion of SEPs in cases against governmental entities, except for diesel emission reduction SEPs, that are expressly authorized by Congress, and some other limited potential exceptions. The memorandum also signals that SEPs are not likely to be approved in any settlement, whether with a governmental or private party.

TALKING POINTS:

- SEPs are a lawful exercise of EPA's enforcement discretion. EPA supports SEPs not only because of their additional positive environmental benefits, but also because they are useful in achieving settlements.
- EPA's SEP Policy is unchanged and still in effect. The Agency continues to support the inclusion of SEPs that meet all the requirements of its SEP Policy in appropriate cases.
- DOJ's policies apply to judicial matters. EPA continues to include SEPs in administrative settlements, including those with governmental entities.

Total Production Set 6.30.21 ED_004082_00006229-00001

To: Traylor, Patrick[traylor.patrick@epa.gov]
From: InsideEPA.com[insideepa-alerts@iwpnews.com]
Sent: Thur 9/19/2019 9:24:15 PM (UTC)
Subject: DOJ Weighs ❖Broader❖ SEP Limits As New Policy Forces Renegotiations

September 19, 2019

THE WEEKLY FOCUS

An in-depth look from our editors at a specific issue facing the Agency, published weekly.

DOJ Weighs 'Broader' SEP Limits As New Policy Forces Renegotiations

A top Justice Department (DOJ) official is considering additional "broader" limits on the use of popular supplemental environmental projects (SEPs) as a way to mitigate penalties in enforcement settlements after DOJ last month curbed their use in municipal settlements, forcing renegotiation of some pending deals and likely curbing future settlements that would implement EPA's upcoming lead and copper drinking water rule.

READ MORE →

EDITORIAL CONTACT

703-562-8763

E-MAIL →

CUSTOMER SERVICE

703-416-8505

E-MAIL →

Site Licenses Available

Want to share access to InsideEPA.com with your colleagues? We have economical site license packages available to fit any size organization, from a few people at one location to company-wide access. For more information on how you can get greater access to InsideEPA.com for your office, contact our Online Customer Service department at 703-416-8505 or iepa@iwpnews.com.

Please do not respond to this e-mail, as it was sent from an unmonitored mailbox. If you have a customer service inquiry, please contact us at iepa@iwpnews.com. If you no longer wish to receive these messages, you can change your e-mail settings on InsideEPA.com (you may need to log in).

Mailing address: 1919 South Eads Street, Suite 100, Arlington VA 22202

Telephone: 703-416-8500 or 1-800-424-9068

Copyright © 2019 Inside Washington Publishers. All rights reserved About Us | Privacy Policy

To: Traylor, Patrick[traylor.patrick@epa.gov]
From: Bodine, Susan[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=8C2CC6086FCC44C3BE6B5D32B262D983-BODINE, SUS]
Sent: Tue 5/14/2019 7:17:44 PM (UTC)
Subject: sanitized version
OECA Weekly Briefing PT recusal version (May 15, 2019).docx

OECA Weekly Briefing

Date: April 9, 2019
Time: 10:30 a.m.
Location: Administrator's Office
Attendees: Susan Bodine and Patrick Traylor

I. Decision(s) Needed

A.

Ex. 5 AC/AWP

Privileged and Confidential
Do Not Release

II. Update(s)

A. *Applicability of November 2018 Sessions memorandum to municipal settlement supplemental environmental projects*

We (EPA and DOJ both) continue to work through issues related to the November 2018 memo from former Attorney General Sessions on settlements and consent decrees with state and local governments as it relates to the use of supplemental environmental projects in settlements with those entities.

Ex. 5 Attorney Client (AC)

B.

Ex. 5 Attorney Client (AC)

C. *Upcoming mobile source enforcement cases (Patrick recused)*

D.

Ex. 5 Attorney Client (AC)

III. Unresolved issues

A.

Ex. 5 Deliberative Process (DP)

Update

B.

Ex. 5 AC/DP

C. Various documents pending with OGC

IV. Ex. 5 AC / AWP / DP

Ex. 5 AC/AWP

Ex. 5 AC/AWP

Ex. 5 AC/AWP

Ex. 5 AC/AWP

To: Traylor, Patrick[traylor.patrick@epa.gov]
From: Koslow, Karin[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=D00AA4F4FEAD4A3FA02F0CAFE57ED221-KOSLOW, KARIN]
Sent: Thur 8/8/2019 6:15:53 PM (UTC)
Subject: RE: InsideEPA Response - needs additional edits

Excellent resolution - thanks.

Karin Koslow
Deputy Director, Office of Civil Enforcement
Office of Enforcement and Compliance Assurance
U.S. Environmental Protection Agency
Desk: (202) 564-0171
Cell: (Ex. 6
WJC South Room 3142D

From: Traylor, Patrick <traylor.patrick@epa.gov>
Sent: Thursday, August 08, 2019 1:54 PM
To: Koslow, Karin <Koslow.Karin@epa.gov>; Hull, George <Hull.George@epa.gov>; Bodine, Susan <bodine.susan@epa.gov>; Starfield, Lawrence <Starfield.Lawrence@epa.gov>; Egan, Patrick <egan.patrick@epa.gov>; Makepeace, Caroline <Makepeace.Caroline@epa.gov>
Cc: Porter, Amy <Porter.Amy@epa.gov>
Subject: RE: InsideEPA Response - needs additional edits

Ex. 5 Deliberative Process (DP)

Patrick Traylor
Deputy Assistant Administrator
Office of Enforcement and Compliance Assurance
U.S. Environmental Protection Agency
202.809.8796 (m)
Ex. 6 (o)

From: Koslow, Karin <Koslow.Karin@epa.gov>
Sent: Thursday, August 8, 2019 1:39 PM
To: Hull, George <Hull.George@epa.gov>; Bodine, Susan <bodine.susan@epa.gov>; Starfield, Lawrence <Starfield.Lawrence@epa.gov>; Egan, Patrick <egan.patrick@epa.gov>; Traylor, Patrick <traylor.patrick@epa.gov>; Makepeace, Caroline <Makepeace.Caroline@epa.gov>
Cc: Porter, Amy <Porter.Amy@epa.gov>

Subject: RE: InsideEPA Response - needs additional edits

Ex. 5 AC/DP

Thanks,
Karin

Karin Koslow
Deputy Director, Office of Civil Enforcement
Office of Enforcement and Compliance Assurance
U.S. Environmental Protection Agency
Desk: (202) 564-0171
Cell: Ex. 6
WJC South Room 3142D

From: Hull, George <Hull.George@epa.gov>
Sent: Thursday, August 08, 2019 1:25 PM
To: Bodine, Susan <bodine.susan@epa.gov>; Starfield, Lawrence <Starfield.Lawrence@epa.gov>; Egan, Patrick <egan.patrick@epa.gov>; Traylor, Patrick <traylor.patrick@epa.gov>
Cc: Koslow, Karin <Koslow.Karin@epa.gov>
Subject: RE: InsideEPA Response

Here is a revised response. Ex. 5 AC/DP

Ex. 5 AC/DP

Ex. 5 Deliberative Process (DP)

From: Hull, George
Sent: Thursday, August 08, 2019 12:53 PM
To: Bodine, Susan <bodine.susan@epa.gov>; Starfield, Lawrence <Starfield.Lawrence@epa.gov>; Egan, Patrick <egan.patrick@epa.gov>; Traylor, Patrick <traylor.patrick@epa.gov>
Cc: Koslow, Karin <Koslow.Karin@epa.gov>
Subject: RE: InsideEPA Response

Ex. 5 AC/DP

Ex. 5 AC/DP

From: Bodine, Susan <bodine.susan@epa.gov>
Sent: Thursday, August 08, 2019 12:26 PM
To: Starfield, Lawrence <Starfield.Lawrence@epa.gov>; Egan, Patrick <egan.patrick@epa.gov>; Traylor, Patrick <traylor.patrick@epa.gov>
Cc: Hull, George <Hull.George@epa.gov>; Koslow, Karin <Koslow.Karin@epa.gov>
Subject: RE: InsideEPA Response

OK

From: Starfield, Lawrence <Starfield.Lawrence@epa.gov>
Sent: Thursday, August 8, 2019 12:22 PM
To: Bodine, Susan <bodine.susan@epa.gov>; Egan, Patrick <egan.patrick@epa.gov>; Traylor, Patrick <traylor.patrick@epa.gov>
Cc: Hull, George <Hull.George@epa.gov>; Koslow, Karin <Koslow.Karin@epa.gov>
Subject: RE: InsideEPA Response

Susan,

Ex. 5 AC/DP

s Ex. 5 AC/DP How about this:

Ex. 5 Deliberative Process (DP)

Cc'ing Karin to see if OCE has any concerns with the wording.

Larry

This message is CONFIDENTIAL, and may contain legally privileged information. If you are not the intended recipient, or believe you received this communication in error, please delete it immediately, do not copy, and notify the sender. Thank you.

From: Bodine, Susan <bodine.susan@epa.gov>
Sent: Thursday, August 08, 2019 11:56 AM
To: Egan, Patrick <egan.patrick@epa.gov>; Starfield, Lawrence <Starfield.Lawrence@epa.gov>; Traylor, Patrick <traylor.patrick@epa.gov>
Cc: Hull, George <Hull.George@epa.gov>
Subject: RE: InsideEPA Response

My redraft. Any comments? Also needs coordination with DOJ.

Ex. 5 Deliberative Process (DP)

From: Egan, Patrick <egan.patrick@epa.gov>
Sent: Thursday, August 8, 2019 11:01 AM
To: Bodine, Susan <bodine.susan@epa.gov>; Starfield, Lawrence <Starfield.Lawrence@epa.gov>; Traylor, Patrick <traylor.patrick@epa.gov>
Cc: Hull, George <Hull.George@epa.gov>
Subject: InsideEPA Response

Susan, Larry and Patrick,

Here is a proposed response to InsideEPA's inquiry. Let me know if you have any comments.

Thanks,

Pat

Ex. 5 Deliberative Process (DP)

Patrick J. Egan, M.P.A.
Deputy Director of Communications
Office of Enforcement and Compliance Assurance
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue NW (MC: 2201A)
Washington, DC 20460
Office: 202-564-4059 | Cell: Ex. 6

To: Mirza, Sabah[Mirza.Sabah@epa.gov]; Kelley, Rosemarie[Kelley.Rosemarie@epa.gov]; Koslow, Karin[Koslow.Karin@epa.gov]; Buterbaugh, Kristin[Buterbaugh.Kristin@epa.gov]; Sullivan, Greg[Sullivan.Greg@epa.gov]; Saenz, Diana[Saenz.Diana@epa.gov]; Pollins, Mark[Pollins.Mark@epa.gov]; Theis, Joseph[Theis.Joseph@epa.gov]; Denton, Loren[Denton.Loren@epa.gov]; Zimny, James[zimny.james@epa.gov]; Rae, Sarah[Rae.Sarah@epa.gov]; Porter, Amy[Porter.Amy@epa.gov]; Grisby, Erin[grisby.erin@epa.gov]; Ziegel, Dean[Ziegel.Dean@epa.gov]; Makepeace, Caroline[Makepeace.Caroline@epa.gov]
Cc: Starfield, Lawrence[Starfield.Lawrence@epa.gov]; Johnson, Kathleen[Johnson.Kathleen@epa.gov]; Traylor, Patrick[traylor.patrick@epa.gov]; Shiffman, Cari[Shiffman.Cari@epa.gov]
Sent: Fri 8/16/2019 2:26:22 PM (UTC)
Subject: RE: Follow-up items from OCE weekly 8/15/19
PLAW-114publ322 WIIN Act.pdf
Memorandum regarding SEPs in Settlements with State and Local Governments (August 9, 2019).pdf

On SEP strategy meeting,

Ex. 5 AC/DP

From: Mirza, Sabah <Mirza.Sabah@epa.gov>
Sent: Thursday, August 15, 2019 5:32 PM
To: Kelley, Rosemarie <Kelley.Rosemarie@epa.gov>; Koslow, Karin <Koslow.Karin@epa.gov>; Buterbaugh, Kristin <Buterbaugh.Kristin@epa.gov>; Sullivan, Greg <Sullivan.Greg@epa.gov>; Saenz, Diana <Saenz.Diana@epa.gov>; Pollins, Mark <Pollins.Mark@epa.gov>; Theis, Joseph <Theis.Joseph@epa.gov>; Denton, Loren <Denton.Loren@epa.gov>; Zimny, James <zimny.james@epa.gov>; Rae, Sarah <Rae.Sarah@epa.gov>; Porter, Amy <Porter.Amy@epa.gov>; Grisby, Erin <grisby.erin@epa.gov>; Ziegel, Dean <Ziegel.Dean@epa.gov>; Makepeace, Caroline <Makepeace.Caroline@epa.gov>
Cc: Bodine, Susan <bodine.susan@epa.gov>; Starfield, Lawrence <Starfield.Lawrence@epa.gov>; Johnson, Kathleen <Johnson.Kathleen@epa.gov>; Traylor, Patrick <traylor.patrick@epa.gov>; Shiffman, Cari <Shiffman.Cari@epa.gov>
Subject: RE: Follow-up items from OCE weekly 8/15/19

Hi all,

Here are the follow-up items from today's OCE meeting:

1.
2.
3. **Ex. 5 Deliberative Process (DP)**
4. Set up EPA SEP Strategy Meeting

Thanks,
Sabah

~~~~~~~~~~~~~~~~~~~~~~

Sabah Mirza, Special Assistant
Office of Enforcement and Compliance Assurance
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue NW, 3207E WJC South
Washington, DC 20460
Office: 202-564-8176

From: Mirza, Sabah
Sent: Thursday, August 8, 2019 11:37 AM
To: Kelley, Rosemarie <Kelley.Rosemarie@epa.gov>; Koslow, Karin <Koslow.Karin@epa.gov>; Buterbaugh, Kristin <Buterbaugh.Kristin@epa.gov>; Sullivan, Greg <Sullivan.Greg@epa.gov>; Saenz, Diana <Saenz.Diana@epa.gov>; Miles, James <miles.james@epa.gov>; Garvey, Mark <Garvey.Mark@epa.gov>; Milton, Philip <Milton.Philip@epa.gov>; Brooks, Phillip
~~~~~~~~~~~~~~~~~~~~~~

<Brooks.Phillip@epa.gov>; Chapman, Apple <Chapman.Apple@epa.gov>; Fried, Gregory <Fried.Gregory@epa.gov>; Sullivan, Tim <Sullivan.Tim@epa.gov>; Pollins, Mark <Pollins.Mark@epa.gov>; Theis, Joseph <Theis.Joseph@epa.gov>; Denton, Loren <Denton.Loren@epa.gov>; Zimny, James <zimny.james@epa.gov>; Rae, Sarah <Rae.Sarah@epa.gov>; Porter, Amy <Porter.Amy@epa.gov>; Jonesi, Gary <Jonesi.Gary@epa.gov>
Cc: Bodine, Susan <bodine.susan@epa.gov>; Starfield, Lawrence <Starfield.Lawrence@epa.gov>; Johnson, Kathleen <Johnson.Kathleen@epa.gov>; Traylor, Patrick <traylor.patrick@epa.gov>; Shiffman, Cari <Shiffman.Cari@epa.gov>
Subject: RE: Follow-up items from OCE weekly 8/8/19

Hi all,

Here are the follow-up items from today's OCE meeting:

Ex. 5 Deliberative Process (DP)

Thanks,
Sabah

~~~~~~~~~~~~~~~~~~~~~~

Sabah Mirza, Special Assistant
Office of Enforcement and Compliance Assurance
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue NW, 3207E WJC South
Washington, DC 20460
Office: 202-564-8176

From: Mirza, Sabah
Sent: Wednesday, July 31, 2019 1:45 PM
To: Kelley, Rosemarie <Kelley.Rosemarie@epa.gov>; Koslow, Karin <Koslow.Karin@epa.gov>; Buterbaugh, Kristin <Buterbaugh.Kristin@epa.gov>; Fogarty, Johnpc <Fogarty.Johnpc@epa.gov>; Pollins, Mark <Pollins.Mark@epa.gov>; Theis, Joseph <Theis.Joseph@epa.gov>; Bahk, Benjamin <Bahk.Benjamin@epa.gov>; Cherry, Andrew <Cherry.Andrew@epa.gov>
Cc: Bodine, Susan <bodine.susan@epa.gov>; Starfield, Lawrence <Starfield.Lawrence@epa.gov>; Johnson, Kathleen <Johnson.Kathleen@epa.gov>
Subject: Follow-up items from OCE weekly 7/31/19

Hi all,

Here are the follow-up items from today's OCE meeting:

Ex. 5 Deliberative Process (DP)

Thanks,
Sabah

~~~~~~~~~~~~~~~~~~~~~~

Sabah Mirza, Special Assistant

Office of Enforcement and Compliance Assurance
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue NW, 3207E WJC South
Washington, DC 20460
Office: 202-564-8176

From: Mirza, Sabah
Sent: Thursday, July 25, 2019 5:03 PM
To: Kelley, Rosemarie <Kelley.Rosemarie@epa.gov>; Koslow, Karin <Koslow.Karin@epa.gov>; Fogarty, Johnpc <Fogarty.Johnpc@epa.gov>; Saenz, Diana <Saenz.Diana@epa.gov>; Buterbaugh, Kristin <Buterbaugh.Kristin@epa.gov>; Miles, James <miles.james@epa.gov>; Ziegel, Dean <Ziegel.Dean@epa.gov>
Cc: Bodine, Susan <bodine.susan@epa.gov>; Starfield, Lawrence <Starfield.Lawrence@epa.gov>; Johnson, Kathleen <Johnson.Kathleen@epa.gov>; Shiffman, Cari <Shiffman.Cari@epa.gov>; Traylor, Patrick <traylor.patrick@epa.gov>
Subject: Follow-up items from OCE weekly 7/25/19

Hi all,

Here are the follow-up items from the OCE meeting today:

Ex. 5 Deliberative Process (DP)

Thanks,
Sabah

~~~~~~~~~~~~~~~~~~~~~~~

Sabah Mirza, Special Assistant
Office of Enforcement and Compliance Assurance
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue NW, 3207E WJC South
Washington, DC 20460
Office: 202-564-8176

From: Mirza, Sabah
Sent: Thursday, July 11, 2019 3:56 PM
To: Kelley, Rosemarie <Kelley.Rosemarie@epa.gov>; Koslow, Karin <Koslow.Karin@epa.gov>; Fogarty, Johnpc <Fogarty.Johnpc@epa.gov>; Buterbaugh, Kristin <Buterbaugh.Kristin@epa.gov>; Bahk, Benjamin <Bahk.Benjamin@epa.gov>; Denton, Loren <Denton.Loren@epa.gov>; Cherry, Andrew <Cherry.Andrew@epa.gov>
Cc: Bodine, Susan <bodine.susan@epa.gov>; Starfield, Lawrence <Starfield.Lawrence@epa.gov>; Johnson, Kathleen <Johnson.Kathleen@epa.gov>; Shiffman, Cari <Shiffman.Cari@epa.gov>
Subject: Follow-up items from OEC weekly 7/11/19

Hi all,

Here are the follow-up items from the OCE meeting today:

Ex. 5 Deliberative Process (DP)

Thanks,
Sabah
~~~~~~~~~~~~~~~~~~~~~~~

~~~~~~~~~~~~~~~~~~~~~~~

Sabah Mirza, Special Assistant
Office of Enforcement and Compliance Assurance
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue NW, 3207E WJC South
Washington, DC 20460
Office: 202-564-8176
~~~~~~~~~~~~~~~~~~~~~~~

To: Mirza, Sabah[Mirza.Sabah@epa.gov]; Kelley, Rosemarie[Kelley.Rosemarie@epa.gov]; Koslow, Karin[Koslow.Karin@epa.gov]; Buterbaugh, Kristin[Buterbaugh.Kristin@epa.gov]; Sullivan, Greg[Sullivan.Greg@epa.gov]; Saenz, Diana[Saenz.Diana@epa.gov]; Pollins, Mark[Pollins.Mark@epa.gov]; Theis, Joseph[Theis.Joseph@epa.gov]; Denton, Loren[Denton.Loren@epa.gov]; Zimny, James[zimny.james@epa.gov]; Rae, Sarah[Rae.Sarah@epa.gov]; Porter, Amy[Porter.Amy@epa.gov]; Grisby, Erin[grisby.erin@epa.gov]; Ziegel, Dean[Ziegel.Dean@epa.gov]; Makepeace, Caroline[Makepeace.Caroline@epa.gov]
Cc: Starfield, Lawrence[Starfield.Lawrence@epa.gov]; Johnson, Kathleen[Johnson.Kathleen@epa.gov]; Traylor, Patrick[traylor.patrick@epa.gov]; Shiffman, Cari[Shiffman.Cari@epa.gov]
Sent: Fri 8/16/2019 2:58:07 PM (UTC)
Subject: RE: Follow-up items from OCE weekly 8/15/19
PLAW-114publ322 WIIN Act.pdf
Memorandum regarding SEPs in Settlements with State and Local Governments (August 9, 2019).pdf

On SEP strategy meeting,

Ex. 5 AC/DP

From: Mirza, Sabah <Mirza.Sabah@epa.gov>
Sent: Thursday, August 15, 2019 5:32 PM
To: Kelley, Rosemarie <Kelley.Rosemarie@epa.gov>; Koslow, Karin <Koslow.Karin@epa.gov>; Buterbaugh, Kristin <Buterbaugh.Kristin@epa.gov>; Sullivan, Greg <Sullivan.Greg@epa.gov>; Saenz, Diana <Saenz.Diana@epa.gov>; Pollins, Mark <Pollins.Mark@epa.gov>; Theis, Joseph <Theis.Joseph@epa.gov>; Denton, Loren <Denton.Loren@epa.gov>; Zimny, James <zimny.james@epa.gov>; Rae, Sarah <Rae.Sarah@epa.gov>; Porter, Amy <Porter.Amy@epa.gov>; Grisby, Erin <grisby.erin@epa.gov>; Ziegel, Dean <Ziegel.Dean@epa.gov>; Makepeace, Caroline <Makepeace.Caroline@epa.gov>
Cc: Bodine, Susan <bodine.susan@epa.gov>; Starfield, Lawrence <Starfield.Lawrence@epa.gov>; Johnson, Kathleen <Johnson.Kathleen@epa.gov>; Traylor, Patrick <traylor.patrick@epa.gov>; Shiffman, Cari <Shiffman.Cari@epa.gov>
Subject: RE: Follow-up items from OCE weekly 8/15/19

Hi all,

Here are the follow-up items from today's OCE meeting:

1. **Ex. 5 Attorney Client (AC)**
2.
3.
4. Set up EPA SEP Strategy Meeting

Thanks,
Sabah

~~~~~~~~~~~~~~~~~~~~~~

Sabah Mirza, Special Assistant
Office of Enforcement and Compliance Assurance
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue NW, 3207E WJC South
Washington, DC 20460
Office: 202-564-8176

From: Mirza, Sabah
Sent: Thursday, August 8, 2019 11:37 AM
To: Kelley, Rosemarie <Kelley.Rosemarie@epa.gov>; Koslow, Karin <Koslow.Karin@epa.gov>; Buterbaugh, Kristin <Buterbaugh.Kristin@epa.gov>; Sullivan, Greg <Sullivan.Greg@epa.gov>; Saenz, Diana <Saenz.Diana@epa.gov>; Miles, James <miles.james@epa.gov>; Garvey, Mark <Garvey.Mark@epa.gov>; Milton, Philip <Milton.Philip@epa.gov>; Brooks, Phillip
~~~~~~~~~~~~~~~~~~~~~~

<Brooks.Phillip@epa.gov>; Chapman, Apple <Chapman.Apple@epa.gov>; Fried, Gregory <Fried.Gregory@epa.gov>; Sullivan, Tim <Sullivan.Tim@epa.gov>; Pollins, Mark <Pollins.Mark@epa.gov>; Theis, Joseph <Theis.Joseph@epa.gov>; Denton, Loren <Denton.Loren@epa.gov>; Zimny, James <zimny.james@epa.gov>; Rae, Sarah <Rae.Sarah@epa.gov>; Porter, Amy <Porter.Amy@epa.gov>; Jonesi, Gary <Jonesi.Gary@epa.gov>
Cc: Bodine, Susan <bodine.susan@epa.gov>; Starfield, Lawrence <Starfield.Lawrence@epa.gov>; Johnson, Kathleen <Johnson.Kathleen@epa.gov>; Traylor, Patrick <traylor.patrick@epa.gov>; Shiffman, Cari <Shiffman.Cari@epa.gov>
Subject: RE: Follow-up items from OCE weekly 8/8/19

Hi all,

Here are the follow-up items from today's OCE meeting:

Ex. 5 Deliberative Process (DP)

Thanks,
Sabah

~~~~~~~~~~~~~~~~~~~~~~

Sabah Mirza, Special Assistant
Office of Enforcement and Compliance Assurance
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue NW, 3207E WJC South
Washington, DC 20460
Office: 202-564-8176

From: Mirza, Sabah
Sent: Wednesday, July 31, 2019 1:45 PM
To: Kelley, Rosemarie <Kelley.Rosemarie@epa.gov>; Koslow, Karin <Koslow.Karin@epa.gov>; Buterbaugh, Kristin <Buterbaugh.Kristin@epa.gov>; Fogarty, Johnpc <Fogarty.Johnpc@epa.gov>; Pollins, Mark <Pollins.Mark@epa.gov>; Theis, Joseph <Theis.Joseph@epa.gov>; Bahk, Benjamin <Bahk.Benjamin@epa.gov>; Cherry, Andrew <Cherry.Andrew@epa.gov>
Cc: Bodine, Susan <bodine.susan@epa.gov>; Starfield, Lawrence <Starfield.Lawrence@epa.gov>; Johnson, Kathleen <Johnson.Kathleen@epa.gov>
Subject: Follow-up items from OCE weekly 7/31/19

Hi all,

Here are the follow-up items from today's OCE meeting:

Ex. 5 Deliberative Process (DP)

Thanks,
Sabah

~~~~~~~~~~~~~~~~~~~~~~

Sabah Mirza, Special Assistant

Office of Enforcement and Compliance Assurance
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue NW, 3207E WJC South
Washington, DC 20460
Office: 202-564-8176

From: Mirza, Sabah
Sent: Thursday, July 25, 2019 5:03 PM
To: Kelley, Rosemarie <Kelley.Rosemarie@epa.gov>; Koslow, Karin <Koslow.Karin@epa.gov>; Fogarty, Johnpc <Fogarty.Johnpc@epa.gov>; Saenz, Diana <Saenz.Diana@epa.gov>; Buterbaugh, Kristin <Buterbaugh.Kristin@epa.gov>; Miles, James <miles.james@epa.gov>; Ziegel, Dean <Ziegel.Dean@epa.gov>
Cc: Bodine, Susan <bodine.susan@epa.gov>; Starfield, Lawrence <Starfield.Lawrence@epa.gov>; Johnson, Kathleen <Johnson.Kathleen@epa.gov>; Shiffman, Cari <Shiffman.Cari@epa.gov>; Traylor, Patrick <traylor.patrick@epa.gov>
Subject: Follow-up items from OCE weekly 7/25/19

Hi all,

Here are the follow-up items from the OCE meeting today:

Ex. 5 Deliberative Process (DP)

Thanks,
Sabah

~~~~~~~~~~~~~~~~~~~~~~~~

Sabah Mirza, Special Assistant
Office of Enforcement and Compliance Assurance
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue NW, 3207E WJC South
Washington, DC 20460
Office: 202-564-8176

From: Mirza, Sabah
Sent: Thursday, July 11, 2019 3:56 PM
To: Kelley, Rosemarie <Kelley.Rosemarie@epa.gov>; Koslow, Karin <Koslow.Karin@epa.gov>; Fogarty, Johnpc <Fogarty.Johnpc@epa.gov>; Buterbaugh, Kristin <Buterbaugh.Kristin@epa.gov>; Bahk, Benjamin <Bahk.Benjamin@epa.gov>; Denton, Loren <Denton.Loren@epa.gov>; Cherry, Andrew <Cherry.Andrew@epa.gov>
Cc: Bodine, Susan <bodine.susan@epa.gov>; Starfield, Lawrence <Starfield.Lawrence@epa.gov>; Johnson, Kathleen <Johnson.Kathleen@epa.gov>; Shiffman, Cari <Shiffman.Cari@epa.gov>
Subject: Follow-up items from OEC weekly 7/11/19

Hi all,

Here are the follow-up items from the OCE meeting today:

Ex. 5 Deliberative Process (DP)

2

Thanks,
Sabah
~~~~~~~~~~~~~~~~~~~~~~~~

~~~~~~~~~~~~~~~~~~~~~~~

Sabah Mirza, Special Assistant
Office of Enforcement and Compliance Assurance
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue NW, 3207E WJC South
Washington, DC 20460
Office: 202-564-8176
~~~~~~~~~~~~~~~~~~~~~~~

To: Starfield, Lawrence[Starfield.Lawrence@epa.gov]; Traylor, Patrick[traylor.patrick@epa.gov]
From: bodine.susan@epa.gov[bodine.susan@epa.gov]
Sent: Sun 7/14/2019 10:05:38 PM (UTC)
Subject: Fwd: Draft SEPs State/Local Memo
ENRD State and Local SEP Memo External Draft 1.docx
ATT00001.htm

Let's read before forwarding to our folks

Sent from my iPad

Begin forwarded message:

From: "Clark, Jeffrey (ENRD)" <jbc1@usdoj.gov>
Date: July 14, 2019 at 4:38:27 PM EDT
To: "bodine.susan@epa.gov" <bodine.susan@epa.gov>
Cc: "Brightbill, Jonathan (ENRD)" <Jonathan.Brightbill@usdoj.gov>, "Gelber, Bruce (ENRD)" <Bruce.Gelber@usdoj.gov>
Subject: Draft SEPs State/Local Memo

Susan, please see the attached.

Ex. 5 Attorney Client (AC)

Jeff

To: Bodine, Susan[bodine.susan@epa.gov]
Cc: Kelley, Rosemarie[Kelley.Rosemarie@epa.gov]; Fogarty, Johnpc[Fogarty.Johnpc@epa.gov]; Makepeace, Caroline[Makepeace.Caroline@epa.gov]; Koslow, Karin[Koslow.Karin@epa.gov]
From: Starfield, Lawrence[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=8A89D6CD217D4254A5879ABECB3F314E-STARFIELD, LAWRENCE]
Sent: Mon 4/29/2019 6:02:52 PM (UTC)
Subject: SEP talking points
Possible Talking Points for meeting with Jesse Pannucio 4 29 19 revised.docx

Susan,

OCE had a number of good revisions to the draft talking points on SEPs. The revised memo is attached.

Larry

To: Bodine, Susan[bodine.susan@epa.gov]
Cc: Kelley, Rosemarie[Kelley.Rosemarie@epa.gov]; Fogarty, Johnpc[Fogarty.Johnpc@epa.gov]; Makepeace, Caroline[Makepeace.Caroline@epa.gov]
From: Starfield, Lawrence[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=8A89D6CD217D4254A5879ABECB3F314E-STARFIELD, LAWRENCE]
Sent: Sun 4/28/2019 10:38:10 PM (UTC)
Subject: SEP meeting with DOJ
Possible Talking Points for meeting with Jesse Pannucio 4 28 19.docx

Susan,

Ex. 5 Deliberative Process (DP)

For your consideration.

Larry

This message is CONFIDENTIAL, and may contain legally privileged information. If you are not the intended recipient, or believe you received this communication in error, please delete it immediately, do not copy, and notify the sender. Thank you.

To: Bodine, Susan[bodine.susan@epa.gov]
From: Starfield, Lawrence[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=8A89D6CD217D4254A5879ABECB3F314E-STARFIELD, LAWRENCE]
Sent: Thur 6/27/2019 12:31:48 PM (UTC)
Subject: FW: Corpus Christi and SEP

Status of Corpus negotiations, FYI.

From: Payne, James
Sent: Wednesday, June 26, 2019 9:57 PM
To: Kelley, Rosemarie <Kelley.Rosemarie@epa.gov>; Starfield, Lawrence <Starfield.Lawrence@epa.gov>
Cc: Seager, Cheryl <Seager.Cheryl@epa.gov>; McDonald, Scott <mcdonald.scott@epa.gov>; Welton, Patricia <Welton.Patricia@epa.gov>
Subject: Corpus Christi and SEP

Hi Rosemarie, Larry – sharing FYI this process update Ex. 5 Attorney Work Product (AWP)

From: Herbert, Rusty
Sent: Wednesday, June 26, 2019 10:38 AM
To: Payne, James <payne.james@epa.gov>; McDonald, Scott <mcdonald.scott@epa.gov>; Welton, Patricia <Welton.Patricia@epa.gov>; Peters, Carol <Peters.Carol@epa.gov>
Subject: CC Status Update week of 6/26/2019

Ex. 5 Attorney Work Product (AWP)

To: Bodine, Susan[bodine.susan@epa.gov]
Cc: Brightbill, Jonathan (ENRD)[Jonathan.Brightbill@usdoj.gov]; bruce.gelber@usdoj.gov[bruce.gelber@usdoj.gov]
From: Clark, Jeffrey (ENRD)[jbc1@usdoj.gov]
Sent: Sun 7/14/2019 8:38:27 PM (UTC)
Subject: Draft SEPs State/Local Memo
ENRD State and Local SEP Memo External Draft 1.docx
ATT00001.htm

Susan, please see the attached.

Ex. 5 Attorney Client (AC)

Jeff

To: Bodine, Susan[bodine.susan@epa.gov]
From: Idsal, Anne[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=B1BECA8121FB47A08E82B6BF2247A79B-IDSAL, ANNE]
Sent: Wed 3/13/2019 5:59:27 PM (UTC)
Subject: Fwd: Houston - Ex. 5 AC/AWP/DP

Ex. 5 AC/AWP/DP

Sent from my iPhone

Begin forwarded message:

From: "Payne, James" <payne.james@epa.gov>
Date: March 13, 2019 at 12:33:07 PM CDT
To: "Idsal, Anne" <idsal.anne@epa.gov>, "Chancellor, Erin" <chancellor.erin@epa.gov>, "Gray, David" <gray.david@epa.gov>
Cc: "Seager, Cheryl" <Seager.Cheryl@epa.gov>, "Gilrein, Stephen" <gilrein.stephen@epa.gov>, "Ordonez, Efren" <Ordonez.Efren@epa.gov>, "McDonald, Scott" <mcdonald.scott@epa.gov>, "Welton, Patricia" <Welton.Patricia@epa.gov>
Subject: Houston - Ex. 5 AC/AWP/DP

Ex. 5 AC/AWP/DP

From: Ordonez, Efren
Sent: Tuesday, March 12, 2019 5:12 PM
To: Payne, James <payne.james@epa.gov>; Seager, Cheryl <Seager.Cheryl@epa.gov>
Cc: Saunders, Jerry <Saunders.Jerry@epa.gov>; Peters, Carol <Peters.Carol@epa.gov>; McDonald, Scott <mcdonald.scott@epa.gov>; Murdock, James <Murdock.James@epa.gov>; Vaughn, Alan <Vaughn.Alan@epa.gov>
Subject: Houston - Ex. 5 AC/AWP/DP

Ex. 5 AC/AWP/DP

Ex. 5 AC/AWP/DP

If you have any questions or want more detailed information, please let me know.

Efren Ordóñez
Senior Attorney (ORC)
EPA, Region 6
Ex. 6 Personal Privacy (PP)

To: Bodine, Susan[bodine.susan@epa.gov]
Cc: Kelley, Rosemarie[Kelley.Rosemarie@epa.gov]
From: Starfield, Lawrence[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=8A89D6CD217D4254A5879ABECB3F314E-STARFIELD, LAWRENCE]
Sent: Thur 4/11/2019 4:54:27 PM (UTC)
Subject: FW: Consent Decree

Ex. 5 Deliberative Process (DP)

Larry
This message is CONFIDENTIAL, and may contain legally privileged information. If you are not the intended recipient, or believe you received this communication in error, please delete it immediately, do not copy, and notify the sender. Thank you.

From: Douglas, Nathaniel (ENRD) <Nathaniel.Douglas@usdoj.gov>
Sent: Thursday, April 11, 2019 12:46 PM
To: Starfield, Lawrence <Starfield.Lawrence@epa.gov>; Kelley, Rosemarie <Kelley.Rosemarie@epa.gov>
Cc: Mariani, Tom (ENRD) <Tom.Mariani@usdoj.gov>
Subject: FW: Consent Decree

Larry and Rosemarie, please note Houston's most recent email. I have alerted Gelber and Tom, but we have not yet talked about this.

From: Debra Baker <DBaker@BakerWotring.com>
Sent: Wednesday, April 10, 2019 8:21 PM
To: Douglas, Nathaniel (ENRD) <NDouglas@ENRD.USDOJ.GOV>; Efren Ordonez (Ordonez.Efren@epamail.epa.gov) <Ordonez.Efren@epamail.epa.gov>
Cc: Goodwin, Phillip - HPW <Phillip.Goodwin@houstontx.gov>
Subject: Consent Decree

Nat, this will follow up on our call yesterday when Jeff Clark and Susan Bodine advised the City that DOJ/EPA interpreted the Sessions memo to preclude them from keeping the SEP and stipulated remedies language in the CD because the memo did not allow CDs to be used to obtain things that could not be obtained by litigating the matter to judgment. This interpretation of the Sessions memo also precludes EPA from obtaining any stipulated penalties in the CD because stipulated penalties, like stipulated remedies, cannot be obtained by litigating the matter to judgment since a Judge cannot order penalties for events or violations that have not yet occurred. Simply put, stipulated penalties are not things that the United States could obtain through agency action or in litigation as per the Sessions Memo at page 5.

Given this position, we propose to simply eliminate the references to the United States' recovery of stipulated penalties and just cut the stipulated penalty amounts currently in the CD in half so that the State can recover its half of the amounts negotiated. We ask that you review this with your management and

believe that this will fully resolve the outstanding issue you have raised with the Sessions memo. Thanks, Debra.

Debra Tsuchiyama Baker
Managing Partner
Baker · Wotring LLP
700 JPMorgan Chase Tower
600 Travis Street
Houston, TX 77002
713.980.1717 Direct
713.594.2212 Cell
713.980.1700 Main
713.980.1701 Fax
dbaker@bakerwotring.com
www.bakerwotring.com

Confidentiality Notice: The information contained in this electronic mail transmission is confidential. It may also be subject to the attorney-client privilege or be privileged work product or proprietary information. This information is intended for the exclusive use of the addressee(s). If you are not the intended recipient, you are hereby notified that any use, disclosure, dissemination, distribution (other than to the addressee(s)), copying or taking of any action because of this information is strictly prohibited. If this message has been sent to you in error, please reply to the sender that you have received this message in error, then delete this message without dissemination of any kind.

To: Loving, Shanita[Loving.Shanita@epa.gov]
From: Bodine, Susan[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=8C2CC6086FCC44C3BE6B5D32B262D983-BODINE, SUS]
Sent: Tue 5/28/2019 7:02:31 PM (UTC)
Subject: FW: Materials for Claire Murray SEP meeting
Talking Points for Meeting with PDAAG Claire Murray on Application of the Principles and Procedures for Civil Consent Decrees and Settlement Agreements with State.5.28.2019.docx
Examples of Typical Muni SEPs.5.22.2019.docx
Fundamental Facts About SEPs.5.22.2019.docx
Current State of Affairs on SEPs with DOJ.5.22.2019.docx
EPA-DOJ MOU 1977-42 FR 48942 (003).pdf

From: Makepeace, Caroline
Sent: Tuesday, May 28, 2019 2:57 PM
To: Bodine, Susan <bodine.susan@epa.gov>; Starfield, Lawrence <Starfield.Lawrence@epa.gov>
Cc: Shiffman, Cari <Shiffman.Cari@epa.gov>; Kelley, Rosemarie <Kelley.Rosemarie@epa.gov>; Koslow, Karin <Koslow.Karin@epa.gov>; Fogarty, Johnpc <Fogarty.Johnpc@epa.gov>; Porter, Amy <Porter.Amy@epa.gov>; Buterbaugh, Kristin <Buterbaugh.Kristin@epa.gov>; Bailey-Morton, Ethel <Bailey-Morton.Ethel@epa.gov>
Subject: Materials for Claire Murray SEP meeting

Attached are talking points and background materials for tomorrow's meeting with Claire Murray, on SEPs in state and local government cases.

1. Talking Points for the Wednesday discussion with Claire Murray
2. Examples of Typical Muni SEPs
3. Synopsis of current state of affairs on SEPs, with DOJ/AAG
4. SEP Fact Sheet
5. 1977 MOU with DOJ

Ex. 5 AC/AWP/DP

Just let us know if you have any questions.

Caroline Makepeace
Senior Counsel
Office of Civil Enforcement
US Environmental Protection Agency
202-564-6012

This may contain enforcement confidential or privileged material. Do not release without appropriate review. If you have received this message in error, please inform the sender, and promptly delete.

From: Makepeace, Caroline
Sent: Tuesday, May 28, 2019 12:10 PM
To: Bodine, Susan <bodine.susan@epa.gov>; Starfield, Lawrence <Starfield.Lawrence@epa.gov>
Cc: Shiffman, Cari <Shiffman.Cari@epa.gov>; Rosemarie Kelley <Kelley.Rosemarie@epa.gov>; Karin Koslow <Koslow.Karin@epa.gov>; Fogarty, Johnpc <Fogarty.Johnpc@epa.gov>; Amy Porter <Porter.Amy@epa.gov>; Buterbaugh, Kristin <Buterbaugh.Kristin@epa.gov>
Subject: Advance copy of Revised Talking points for Claire Murray SEP meeting

Susan –

Cari suggested that, since time is tight, we share the attached "advance copy" of revised talking points to see if the new first set of bullets works for you, to reflect the conversation at the OCE general. And, to answer any questions you might have.

Later today we will be following up with:
1) the list of muni SEP examples (no changes);
2) the SEP fact sheet (also no changes);
3) the "state of play" on SEPs;
4) Ex. 5 AC/AWP/DP and
5) a clean copy of the 1977 MOU with DOJ. And, of course, the talking points with any edits you'd like.

Caroline Makepeace
Senior Counsel
Office of Civil Enforcement
US Environmental Protection Agency
202-564-6012

This may contain enforcement confidential or privileged material. Do not release without appropriate review. If you have received this message in error, please inform the sender, and promptly delete.

To: Panuccio, Jesse (OASG)[Jesse.Panuccio@usdoj.gov]
From: Bodine, Susan[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=8C2CC6086FCC44C3BE6B5D32B262D983-BODINE, SUS]
Sent: Fri 5/3/2019 5:04:49 PM (UTC)
Subject: RE: Follow-Up Note on SEPs

Thank you,

Susan

From: Panuccio, Jesse (OASG) <Jesse.Panuccio@usdoj.gov>
Sent: Friday, May 3, 2019 12:06 PM
To: Bodine, Susan <bodine.susan@epa.gov>
Cc: Clark, Jeffrey (ENRD) <jbc1@usdoj.gov>; bruce.gelber@usdoj.gov; Starfield, Lawrence <Starfield.Lawrence@epa.gov>; Davis, Patrick (OASG) <Patrick.Davis@usdoj.gov>
Subject: RE: Follow-Up Note on SEPs

Dear Susan,

Ex. 5 AC/DP

All best,

Jesse

From: Bodine, Susan <bodine.susan@epa.gov>
Sent: Thursday, May 2, 2019 1:02 PM
To: Panuccio, Jesse (OASG) <jpanuccio@jmd.usdoj.gov>
Cc: Clark, Jeffrey (ENRD) <JClark@ENRD.USDOJ.GOV>; Gelber, Bruce (ENRD) <BGelber@ENRD.USDOJ.GOV>; Starfield, Lawrence <Starfield.Lawrence@epa.gov>
Subject: Follow-Up Note on SEPs

Jesse,

Ex. 5 AC/DP

Ex. 5 AC/DP

Ex. 5 Attorney Client (AC)

Ex. 5 Attorney Client (AC)

Thank you for your partnership with EPA during your time at DOJ.

Susan

Susan Parker Bodine
Assistant Administrator
Office of Enforcement and Compliance Assurance
202-564-2440

This message is CONFIDENTIAL, and may contain legally privileged information. If you are not the intended recipient, or believe you received this communication in error, please delete it immediately, do not copy, and notify the sender. Thank you.

To: Clark, Jeffrey (ENRD)[jbc1@usdoj.gov]
From: Bodine, Susan[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=8C2CC6086FCC44C3BE6B5D32B262D983-BODINE, SUS]
Sent: Thur 10/3/2019 5:25:31 PM (UTC)
Subject: Ex. 5 Attorney Client (AC), AWP
Hattiesburg MS Summary 10 2 19 rev.docx

Ex. 5 AC/AWP/DP

Susan

From: Bodine, Susan
Sent: Friday, September 27, 2019 4:43 PM
To: Clark, Jeffrey (ENRD) <jbc1@usdoj.gov>
Subject: Ex. 5 AC/AWP/DP

Jeff,

As I mentioned to you, Ex. 5 AC/AWP/DP The transmittal note and the settlement summaries are attached.
Please let me know if you need additional information.

Susan

Susan Parker Bodine
Assistant Administrator
Office of Enforcement and Compliance Assurance
202-564-2440

This message is CONFIDENTIAL, and may contain legally privileged information. If you are not the intended recipient, or believe you received this communication in error, please delete it immediately, do not copy, and notify the sender. Thank you.

****

From: Susan Bodine

To: Claire Murray

Thru: Jeff Clark

Ex. 5 AC/AWP/DP

Ex. 5 AC/AWP/DP

Please let me know if you would like to discuss this further. I appreciate your consideration of this request.

To: Patrick Traylor (traylor.patrick@epa.gov)[traylor.patrick@epa.gov]
From: Bodine, Susan[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=8C2CC6086FCC44C3BE6B5D32B262D983-BODINE, SUS]
Sent: Fri 8/9/2019 8:26:06 PM (UTC)
Subject: FW: memo to Claire
DRAFT SEP memo to Claire_Redline Format Changes.docx

Cari's redline

From: Shiffman, Cari <Shiffman.Cari@epa.gov>
Sent: Friday, August 9, 2019 3:00 PM
To: Bodine, Susan <bodine.susan@epa.gov>
Cc: Mirza, Sabah <Mirza.Sabah@epa.gov>; Starfield, Lawrence <Starfield.Lawrence@epa.gov>; Traylor, Patrick <traylor.patrick@epa.gov>
Subject: RE: memo to Claire

Yes, just as a FYI, attached are all the formatting changes I made.

Thanks,

Cari Shiffman, Chief of Staff
U.S. Environmental Protection Agency
Office of Enforcement and Compliance Assurance
Office: (202) 564-2898 | Mobile: (202) 823-3277

From: Bodine, Susan <bodine.susan@epa.gov>
Sent: Friday, August 09, 2019 1:51 PM
To: Shiffman, Cari <Shiffman.Cari@epa.gov>
Cc: Mirza, Sabah <Mirza.Sabah@epa.gov>; Starfield, Lawrence <Starfield.Lawrence@epa.gov>; Traylor, Patrick <traylor.patrick@epa.gov>
Subject: memo to Claire

Can you finalize this for signature?

To: Shiffman, Cari[Shiffman.Cari@epa.gov]
Cc: Mirza, Sabah[Mirza.Sabah@epa.gov]; Starfield, Lawrence[Starfield.Lawrence@epa.gov]; Patrick Traylor (traylor.patrick@epa.gov)[traylor.patrick@epa.gov]
From: Bodine, Susan[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=8C2CC6086FCC44C3BE6B5D32B262D983-BODINE, SUS]
Sent: Fri 8/9/2019 5:51:03 PM (UTC)
Subject: memo to Claire
DRAFT SEP memo to Claire .docx

Can you finalize this for signature?

Appointment

From: Walker, Yolaanda [Walker.Yolaanda@epa.gov]
Sent: 8/6/2019 7:18:19 PM
To: Walker, Yolaanda [Walker.Yolaanda@epa.gov]; Aber, Bruce [Aber.Bruce@epa.gov]; Teter, Royan [Teter.Royan@epa.gov]
CC: Sullivan, Greg [Sullivan.Greg@epa.gov]; Saenz, Diana [Saenz.Diana@epa.gov]; Schaaf, Eric [Schaaf.Eric@epa.gov]; Simon, Paul [Simon.Paul@epa.gov]; Shapiro, Naomi [Shapiro.Naomi@epa.gov]; Gutierrez, Claudia [Gutierrez.Claudia@epa.gov]; Voo, Leonard [Voo.Leonard@epa.gov]

Subject: Canceled: Nassau County Revised Talking Points Judicial Consent Decree Centralized Monitoring System
Location: Call in number 1-855-564-1700, conference extension- 1104845, participate code 234567 - HQ folks meet in Greg's office

Start: 8/7/2019 8:30:00 PM
End: 8/7/2019 9:00:00 PM
Show Time As: Free

Importance: High

HQ folks meet in Greg's office.

From: Aber, Bruce <Aber.Bruce@epa.gov>
Sent: Tuesday, August 6, 2019 3:11 PM
To: Teter, Royan <Teter.Royan@epa.gov>; Walker, Yolaanda <Walker.Yolaanda@epa.gov>
Cc: Sullivan, Greg <Sullivan.Greg@epa.gov>; Saenz, Diana <Saenz.Diana@epa.gov>; Schaaf, Eric <Schaaf.Eric@epa.gov>; Simon, Paul <Simon.Paul@epa.gov>; Shapiro, Naomi <Shapiro.Naomi@epa.gov>; Gutierrez, Claudia <Gutierrez.Claudia@epa.gov>
Subject: Nassau County Revised Talking Points Judicial Consent Decree Centralized Monitoring System

ENFORCEMENT CONFIDENTIAL
ATTORNEY-CLIENT PRIVILEGE

Royan and Yolanda,

[redacted]

Ex. 5 Deliberative Process (DP) & Attorney Client Privilege & Attorney Work Product

Are you available preferably tomorrow (Wed August 7) at 4:15? Or else on Thursday (August 8) at 1:30?

Please let us know.

Thanks

Bruce

Bruce Aber
Assistant Regional Counsel
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 2
290 Broadway, 16th Floor
New York, NY 10007-1866
(212) 637-3224 (phone)
Aber.bruce@epa.gov

From: Aber, Bruce
Sent: Monday, August 5, 2019 5:04 PM
To: Sullivan, Greg <Sullivan.Greg@epa.gov>
Cc: Shapiro, Naomi <Shapiro.Naomi@epa.gov>; Teter, Royan <Teter.Royan@epa.gov>; Walker, Yolaanda <Walker.Yolaanda@epa.gov>; Saenz, Diana <Saenz.Diana@epa.gov>
Subject: Nassau County Judicial Consent Decree Centralized Monitoring System Talking Points for DOJ
Importance: High

ATTORNEY-CLIENT PRIVILEGE
DELIBERATIVE PROCESS/ENFORCEMENT CONFIDENTIAL
DO NOT RELEASE UNDER FOIA

Hi Greg,
As per your discussion with Naomi, attached are the talking points for you to review. Thanks for your willingness to review –As background, we negotiated an administrative CA/FO in 2012 that called for a Supplemental Environmental Project (SEP) with a municipality, Nassau County, that involved centralized monitoring system (CMS) for all its USTs at approximately 50 facilities. We referred the case to DOJ in 2015 b[redacted]ve C[redacted] (S[redacted] in[redacted] be[redacted]

Ex. 5 Deliberative Process (DP) & Attorney Client Privilege & Attorney Work Product

Ex. 5 Deliberative Process (DP) & Attorney Client Privilege & Attorney Work Product

[redacted]

Ex. 5 Deliberative Process (DP) & Attorney Client Privilege & Attorney Work Product

Ex. 5 Deliberative Process (DP) & Attorney Client Privilege & Attorney Work Product

If you have any questions, please call or email me (212 637-3224 or Naomi (212 637-3221 if you have any questions.

Thanks very much in advance.

Bruce

Bruce Aber
Assistant Regional Counsel
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 2
290 Broadway, 16th Floor
New York, NY 10007-1866

(212) 637-3224 (phone)
Aber.bruce@epa.gov

Message

From: Aber, Bruce [Aber.Bruce@epa.gov]
Sent: 7/30/2019 10:50:04 PM
Subject: Fw: nassau
Attachments: Nassau County CMS Revised ORC Talking Points CLEAN NPS BA 6 pm July 30 2019 (1).docx

---

From: bruce aber <bruce_aber@hotmail.com>
Sent: Tuesday, July 30, 2019 6:18 PM
To: Aber, Bruce <Aber.Bruce@epa.gov>
Subject: nassau

see

Talking Points – United States v. Nassau County -Centralized Monitoring System 7/30/19

September 27, 2012: EPA entered into an administrative Consent Agreement/Final Order (CA/FO) with Nassau County on Long Island, NY to resolve substantial non-compliance with UST requirements at approximately 50 facilities.

All of Nassau County's USTs are incidental to the services provided by the County; that is, none of the facilities is solely dedicated to the operation of USTs or to the dispensing of fuel (as a gasoline service station might be), therefore monitoring compliance of USTs is more difficult.

> County-owned USTs are found at police precincts, public parks, administration buildings, court and correctional facilities, Nassau Coliseum, Nassau Community College, municipal garages, waste water treatment facilities, and bus-depots to fuel government vehicles associated with those public works.

Each facility lies over a sole source aquifer used for drinking water by County residents.

The CAFO required the County to pay a civil penalty of $400,000 and to perform injunctive relief to come into compliance. Additionally, the parties agreed that Nassau would undertake two supplemental environmental projects: land acquisition to protect groundwater, and a centralized monitoring system (CMS) to enhance release detection on all the County's UST systems.

The CMS SEP involved the installation and integration of communication equipment into Nassau's automated release detection systems, thereby enabling remote monitoring of release detection of Nassau's USTs 24 hours/7 days per week/365 days per year from a central location. By funneling data from the County's disparate facilities into a single location with the responsibility and expertise for its review, the CMS SEP was intended to enhance Nassau's release detection and improve detection of problems and response time.

Nassau failed to implement or complete the following injunctive relief requirements well after the deadlines in the CA/FO: release detection, overfill prevention, piping tightness testing and permanent closure. The County completed the first SEP (the land acquisition) but did not implement the CMS SEP.

In 2014-15, Nassau hired a contractor to audit its compliance with the UST requirements at 52 locations. The contractor found widespread noncompliance with the release detection requirements, in particular.

EPA referred the case to DOJ on September 30, 2015.

Ex. 5 Deliberative Process (DP) & Attorney Client Privilege & Attorney Work Product

Ex. 5 Deliberative Process (DP) & Attorney Client Privilege & Attorney Work Product

From the regulatory options available, Nassau County chose automatic tank gauging (ATG) as its method of release detection.

Ex. 5 Deliberative Process (DP) & Attorney Client Privilege & Attorney Work Product

Ex. 5 Deliberative Process (DP) & Attorney Client Privilege & Attorney Work Product

Ex. 5 Deliberative Process (DP) & Attorney Client Privilege & Attorney Work Product

Ex. 5 Deliberative Process (DP) & Attorney Client Privilege & Attorney Work Product

Ex. 5 Deliberative Process (DP) & Attorney Client Privilege & Attorney Work Product

Ex. 5 Deliberative Process (DP) & Attorney Client Privilege & Attorney Work Product

Message

From: Aber, Bruce [Aber.Bruce@epa.gov]
Sent: 1/19/2018 8:17:01 PM
To: Sawyer, William [Sawyer.William@epa.gov]
Subject: RE: status of Chestnut and Nassau

From: Sawyer, William
Sent: Friday, January 19, 2018 12:37 PM
To: Aber, Bruce
Subject: status of Chestnut and Nassau

Bruce- we have an upcoming Docket review and you will be out starting next Weds. Please look over the below status reports . Any revisions ? Accurate ? Anything else that should also be mentioned ?

Ex. 5 Deliberative Process (DP) & Attorney Client Privilege & Attorney Work Product

Message

From: Beckmann, Diane (USANYE) [Diane.Beckmann@usdoj.gov]
Sent: 9/27/2019 1:05:31 PM
To: Aber, Bruce [Aber.Bruce@epa.gov]; Gutierrez, Claudia [Gutierrez.Claudia@epa.gov]
CC: Sawyer, William [Sawyer.William@epa.gov]
Subject: RE: Nassau County Consent Judgment updated, FRE 408 for settlement purposes only

Ex. 5 AC/AWP/DP

From: Aber, Bruce <Aber.Bruce@epa.gov>
Sent: Friday, September 27, 2019 8:45 AM
To: Gutierrez, Claudia <Gutierrez.Claudia@epa.gov>
Cc: Beckmann, Diane (USANYE) <DBeckmann@usa.doj.gov>; Sawyer, William <Sawyer.William@epa.gov>
Subject: RE: Nassau County Consent Judgment updated, FRE 408 for settlement purposes only

Ex. 5 AC/AWP/DP

Diane, what do you think?

Bruce

From: Gutierrez, Claudia
Sent: Friday, September 27, 2019 8:04 AM
To: Diane.Beckmann@usdoj.gov
Cc: Silverman, Matthew (USANYE) <Matthew.Silverman@usdoj.gov>; Beckmann, Diane (USANYE) <Diane.Beckmann@usdoj.gov>; Sawyer, William <Sawyer.William@epa.gov>; Aber, Bruce <Aber.Bruce@epa.gov>
Subject: Re: Nassau County Consent Judgment updated, FRE 408 for settlement purposes only

Good morning:

Ex. 5 AC/AWP/DP

Thoughts?

Claudia Gutierrez
212-637-5036

On Sep 26, 2019, at 5:26 PM, Houdek, Jane M <jhoudek@nassaucountyny.gov> wrote:

> Hi Matthew and Diane,
> I have read your email and reviewed the updated CJ that was attached. It would be very helpful if you would please send the redlined version you referred to in your email. The redline version will make it easier to share the changes with the Commissioner as I had shared the previous draft with him and the redlined version will allow me to quickly go through the changes with him.

He will be back in the office next week, so I don't need the redlined version before Monday. After I review it with him I will let you know if he has any questions about the changes – particularly the changes to the technical descriptions.
Thank you

Jane Houdek
Counsel to the Department of Public Works
1194 Prospect Avenue
Westbury, New York 11590
jhoudek@nassaucountyny.gov
(516) 571-9458
(516) 571-9657 fax

All material contained in this email, including attachments, is privileged and intended solely for the person to whom the email has been addressed. The email and attached files are confidential.

This communication may contain material protected by attorney-client, work product, or other privileges. If you are not the intended recipient or person responsible for delivering this confidential communication to the intended recipient, you have received this communication in error, and any review, use, dissemination,forwarding, printing, copying, or other distribution of this email message and any attached files is strictly prohibited. If you have received this confidential communication in error, please notify the sender immediately by reply email message and permanently delete the original message.

From: Silverman, Matthew (USANYE) <Matthew.Silverman@usdoj.gov>
Sent: Friday, September 13, 2019 12:58 PM
To: Houdek, Jane M <jhoudek@nassaucountyny.gov>; Beckmann, Diane (USANYE) <Diane.Beckmann@usdoj.gov>
Cc: Sawyer, William <Sawyer.William@epa.gov>; 'aber.bruce@epa.gov' <aber.bruce@epa.gov>; Gutierrez.Claudia@epa.gov
Subject: Nassau County Consent Judgment updated, FRE 408 for settlement purposes only
Importance: High

Attention: This email came from an external source. Do not open attachments or click on links from unknown senders or unexpected emails.

Dear Jane,
I am assisting Diane with the Nassau settlement approval process while she prepares for a trial. Please find attached for your review a revised version of the Consent Judgment. The following changes were made to the document since the last version that was sent to you on May 16 (which you found in your spam folder on May 22). Please let us know if you'd like a redlined version, or you may run a compare with your last version:

General points:

- We removed all references to the CMS as a SEP. Instead, we believe that it is more properly viewed as injunctive relief, and CMS is now contained in the compliance terms. *This makes no substantive difference to Nassau's obligations under the CJ, and reduces certain procedural obligations that are only required for SEPs.* Note the deletion of the SEP section (paragraphs 17 thru 26, including certifications. Instead we made the CMS a separate section under paragraph 13, and we deleted the section on CMS Installation Report and Annual Certification and CMS Completion Report. Instead, we are only going

to require certification of completion of CMS requirements or a report in lieu of certification (see paragraphs 18 and 19) and an update of CMS activities as part of the semi-annual reports submitted under paragraph 20.

- We also made changes to the stipulated penalties section, with a general section (now renumbered as paragraph 32, former paragraph 31) for violations of the work requirements, including CMS and a separate section for reporting and recordkeeping violations.

<u>In addition, we made the following changes by paragraph:</u>

Page 1, Paragraph A, last line, add the words "or the Act" after the word "RCRA"
Page 3, Paragraph 5, fourth line, should be a space between the words "new contract"
Page 4, Paragraph 7, add a new definition—"Act" shall mean "RCRA" as defined in this section.

Page 6, Paragraph 11, subparagraph c. The way it was worded was not legally precise. It stated: Each UST system shall have installed electronic release detection monitoring of the under-dispenser containment system, in accordance with 40 C.F.R. Section 280.20(f). This was not correct, because "electronic release detection monitoring" is not required under 280.20(f). Instead, we revised to say: "Each UST System shall have installed an under-dispenser containment system, in accordance with 40 C.F.R. Section 280.20(f). Nassau County has agreed to install electronic sensors and conduct electronic release detection monitoring of the under-dispenser containment system."

Page 6, Subparagraph e. The way it was worded is not legally precise. It stated: For each UST system with overfill prevention equipment that was installed or replaced after October 13, 2015, the ball float overfill device must be replaced or supplemented with either auto-shutoff valves or high level alarms in accordance with 40 C.F.R. Section 280.20©(3). That is not correct. Instead it now says the following: For each UST system with overfill prevention equipment that was installed or replaced after October 13, 2015, the ball float overfill devices may not be used for overfill prevention in accordance with 280.20©(3). The overfill prevention equipment must have either auto-shutoff valves or high level alarms in accordance with 280.20©(1)(ii)(A),(B) or (C).

Paragraph 12 b. Deleted the words "electronic release detection monitoring system" and at the end of this paragraph, inserted a comma and it states ", and shall conduct electronic release detection monitoring for the under-dispenser containment."

Paragraph 15b. 6th line: changed "were " to "was"

Paragraph 21: We changed the citation from 40 C.F.R. Section 280.50(b) to 280.50, because the latter is broader and encompasses 280.50(a)(b)&(c) which all concern reporting of release requirements.

NEW Paragraph 29 (USA's annual report to court): Added to coincide with DOJ policy requirements for consent decrees with state and local governments.

Former Paragraph 34, deleted as unnecessary

Finally, we made a few additional changes to the Note 1 of Appendix A and Note 1 of Appendix C (which is cross referenced in the Modification section), we feel that as written it does not accurately addresses all of our concerns. Note 1 of Appendix B appears Okay, because the modification to the list of facilities there is not tied to any obligation to comply with paragraph 15 or 22.

For Note 1, Appendix A, we believe that there are two scenarios relevant to this appendix. First, modifications to remove a facility from Appendix A could be used because USTs at a facility are

permanently closed which involves the process described in both para 15 (d) and para 22. Once all the USTs are permanently closed, the facility no longer is subject to the injunctive relief provisions, and the facility can come out of App. A (subject to EPA approval) . Next, we deleted the transfer language previously set out in this Note because para # 4 (in Applicability section of the CJ) states that transfers do not end Nassau's obligations under the CJ. Second, we left another more open ended scenario (special by request by Nassau subject to EPA approval) whereby a facility might be dropped out of App. A. This is to cover unforeseen and other possible scenarios - sale, foreclosure, transfer of a facility, etc - where we might conclude (notwithstanding para #4) that a facility should be dropped out of App. A. Because the above two scenarios are distinct, we separate (i) and (ii) with an "or."

For Note 1, Appendix C, (the listing of facilities with permanently closed USTs) we decided upon further reflection that that there is only one scenario to be addressed here —any modification to add a facility to Appendix C will be due to the permanent closure of the USTs at that facility. (this again involves both para 15(d) and 22). Thus, there is no need for this Note to speak to other scenarios.

If you have any questions concerning the above changes or the redlined Consent Judgment, please let us know by September 20th. The draft CJ will require pre-approval by the Assistant Attorney General prior to being sent to the Nassau County Legislature. Once we are in agreement on all language, we will submit the CJ for that pre-approval.

Truly,
Matthew Silverman
Assistant U.S. Attorney
Chief of Environmental Litigation
Civil Division, EDNY
718-254-6409

Message

From: Beckmann, Diane (USANYE) [Diane.Beckmann@usdoj.gov]
Sent: 9/27/2019 12:07:29 PM
To: Gutierrez, Claudia [Gutierrez.Claudia@epa.gov]
CC: Silverman, Matthew (USANYE) [Matthew.Silverman@usdoj.gov]; Sawyer, William [Sawyer.William@epa.gov]; Aber, Bruce [Aber.Bruce@epa.gov]
Subject: RE: Nassau County Consent Judgment updated, FRE 408 for settlement purposes only

Ex. 5 AC/AWP/DP

From: Gutierrez, Claudia <Gutierrez.Claudia@epa.gov>
Sent: Friday, September 27, 2019 8:04 AM
To: Beckmann, Diane (USANYE) <DBeckmann@usa.doj.gov>
Cc: Silverman, Matthew (USANYE) <MSilverman@usa.doj.gov>; Beckmann, Diane (USANYE) <DBeckmann@usa.doj.gov>; Sawyer, William <Sawyer.William@epa.gov>; Aber, Bruce <Aber.Bruce@epa.gov>
Subject: Re: Nassau County Consent Judgment updated, FRE 408 for settlement purposes only

Good morning:

Ex. 5 AC/AWP/DP

Claudia Gutierrez
212-637-5036

On Sep 26, 2019, at 5:26 PM, Houdek, Jane M <jhoudek@nassaucountyny.gov> wrote:

> Hi Matthew and Diane,
> I have read your email and reviewed the updated CJ that was attached. It would be very helpful if you would please send the redlined version you referred to in your email. The redline version will make it easier to share the changes with the Commissioner as I had shared the previous draft with him and the redlined version will allow me to quickly go through the changes with him.
> He will be back in the office next week, so I don't need the redlined version before Monday. After I review it with him I will let you know if he has any questions about the changes – particularly the changes to the technical descriptions.
> Thank you
>
> Jane Houdek
> Counsel to the Department of Public Works
> 1194 Prospect Avenue
> Westbury, New York 11590
> jhoudek@nassaucountyny.gov
> (516) 571-9458
> (516) 571-9657 fax
>
> All material contained in this email, including attachments, is privileged and intended solely for the person to whom the email has been addressed. The email and attached files are confidential.
>
> This communication may contain material protected by attorney-client, work product, or other privileges. If you are not the intended recipient or person responsible for delivering this confidential communication to the intended recipient, you have received this communication in error, and any review, use, dissemination,forwarding, printing, copying, or other distribution of this email message and

any attached files is strictly prohibited. If you have received this confidential communication in error, please notify the sender immediately by reply email message and permanently delete the original message.

From: Silverman, Matthew (USANYE) <Matthew.Silverman@usdoj.gov>
Sent: Friday, September 13, 2019 12:58 PM
To: Houdek, Jane M <jhoudek@nassaucountyny.gov>; Beckmann, Diane (USANYE) <Diane.Beckmann@usdoj.gov>
Cc: Sawyer, William <Sawyer.William@epa.gov>; 'aber.bruce@epa.gov' <aber.bruce@epa.gov>; Gutierrez.Claudia@epa.gov
Subject: Nassau County Consent Judgment updated, FRE 408 for settlement purposes only
Importance: High

Attention: This email came from an external source. Do not open attachments or click on links from unknown senders or unexpected emails.

Dear Jane,
I am assisting Diane with the Nassau settlement approval process while she prepares for a trial. Please find attached for your review a revised version of the Consent Judgment. The following changes were made to the document since the last version that was sent to you on May 16 (which you found in your spam folder on May 22). Please let us know if you'd like a redlined version, or you may run a compare with your last version:

General points:

- We removed all references to the CMS as a SEP. Instead, we believe that it is more properly viewed as injunctive relief, and CMS is now contained in the compliance terms. *This makes no substantive difference to Nassau's obligations under the CJ, and reduces certain procedural obligations that are only required for SEPs.* Note the deletion of the SEP section (paragraphs 17 thru 26, including certifications. Instead we made the CMS a separate section under paragraph 13, and we deleted the section on CMS Installation Report and Annual Certification and CMS Completion Report. Instead, we are only going to require certification of completion of CMS requirements or a report in lieu of certification (see paragraphs 18 and 19) and an update of CMS activities as part of the semi-annual reports submitted under paragraph 20.

- We also made changes to the stipulated penalties section, with a general section (now renumbered as paragraph 32, former paragraph 31) for violations of the work requirements, including CMS and a separate section for reporting and recordkeeping violations.

In addition, we made the following changes by paragraph:

Page 1, Paragraph A, last line, add the words "or the Act" after the word "RCRA"
Page 3, Paragraph 5, fourth line, should be a space between the words "new contract"
Page 4, Paragraph 7, add a new definition—"Act" shall mean "RCRA" as defined in this section.

Page 6, Paragraph 11, subparagraph c. The way it was worded was not legally precise. It stated: Each UST system shall have installed electronic release detection monitoring of the under-dispenser containment system, in accordance with 40 C.F.R. Section 280.20(f). This was not correct, because "electronic release detection monitoring" is not required under 280.20(f). Instead, we revised to say: "Each UST System shall have installed an under-dispenser containment system, in accordance with 40

C.F.R. Section 280.20(f). Nassau County has agreed to install electronic sensors and conduct electronic release detection monitoring of the under-dispenser containment system."

Page 6, Subparagraph e. The way it was worded is not legally precise. It stated: For each UST system with overfill prevention equipment that was installed or replaced after October 13, 2015, the ball float overfill device must be replaced or supplemented with either auto-shutoff valves or high level alarms in accordance with 40 C.F.R. Section 280.20©(3). That is not correct. Instead it now says the following: For each UST system with overfill prevention equipment that was installed or replaced after October 13, 2015, the ball float overfill devices may not be used for overfill prevention in accordance with 280.20©(3). The overfill prevention equipment must have either auto-shutoff valves or high level alarms in accordance with 280.20©(1)(ii)(A),(B) or (C).

Paragraph 12 b. Deleted the words "electronic release detection monitoring system" and at the end of this paragraph, inserted a comma and it states ", and shall conduct electronic release detection monitoring for the under-dispenser containment."

Paragraph 15b. 6th line: changed "were " to "was"

Paragraph 21: We changed the citation from 40 C.F.R. Section 280.50(b) to 280.50, because the latter is broader and encompasses 280.50(a)(b)&(c) which all concern reporting of release requirements.

NEW Paragraph 29 (USA's annual report to court): Added to coincide with DOJ policy requirements for consent decrees with state and local governments.

Former Paragraph 34, deleted as unnecessary

Finally, we made a few additional changes to the Note 1 of Appendix A and Note 1 of Appendix C (which is cross referenced in the Modification section), we feel that as written it does not accurately addresses all of our concerns. Note 1 of Appendix B appears Okay, because the modification to the list of facilities there is not tied to any obligation to comply with paragraph 15 or 22.

For Note 1, Appendix A, we believe that there are two scenarios relevant to this appendix. First, modifications to remove a facility from Appendix A could be used because USTs at a facility are permanently closed which involves the process described in both para 15 (d) and para 22. Once all the USTs are permanently closed, the facility no longer is subject to the injunctive relief provisions, and the facility can come out of App. A (subject to EPA approval) . Next, we deleted the transfer language previously set out in this Note because para # 4 (in Applicability section of the CJ) states that transfers do not end Nassau's obligations under the CJ. Second, we left another more open ended scenario (special by request by Nassau subject to EPA approval) whereby a facility might be dropped out of App. A. This is to cover unforeseen and other possible scenarios - sale, foreclosure, transfer of a facility, etc - where we might conclude (notwithstanding para #4) that a facility should be dropped out of App. A. Because the above two scenarios are distinct, we separate (i) and (ii) with an "or."

For Note 1, Appendix C, (the listing of facilities with permanently closed USTs) we decided upon further reflection that that there is only one scenario to be addressed here —any modification to add a facility to Appendix C will be due to the permanent closure of the USTs at that facility. (this again involves both para 15(d) and 22). Thus, there is no need for this Note to speak to other scenarios.

If you have any questions concerning the above changes or the redlined Consent Judgment, please let us know by September 20th. The draft CJ will require pre-approval by the Assistant Attorney General prior to being sent to the Nassau County Legislature. Once we are in agreement on all language, we will submit the CJ for that pre-approval.

Truly,
Matthew Silverman
Assistant U.S. Attorney
Chief of Environmental Litigation
Civil Division, EDNY
718-254-6409

Message

From: Beckmann, Diane (USANYE) [Diane.Beckmann@usdoj.gov]
Sent: 9/19/2019 12:06:45 PM
To: Aber, Bruce [Aber.Bruce@epa.gov]; Silverman, Matthew (USANYE) [Matthew.Silverman@usdoj.gov]
CC: Sawyer, William [Sawyer.William@epa.gov]; Gutierrez, Claudia [Gutierrez.Claudia@epa.gov]
Subject: RE: Nassau County Consent Judgment updated, FRE 408 for settlement purposes only

Ex. 5 AC/AWP/DP

From: Aber, Bruce <Aber.Bruce@epa.gov>
Sent: Wednesday, September 18, 2019 5:27 PM
To: Silverman, Matthew (USANYE) <MSilverman@usa.doj.gov>; Beckmann, Diane (USANYE) <DBeckmann@usa.doj.gov>
Cc: Sawyer, William <Sawyer.William@epa.gov>; Gutierrez, Claudia <Gutierrez.Claudia@epa.gov>
Subject: **Ex. 5 AC/AWP/DP**

Matt/Diane,

Ex. 5 AC/AWP/DP

Bruce

From: Silverman, Matthew (USANYE) [mailto:Matthew.Silverman@usdoj.gov]
Sent: Friday, September 13, 2019 12:58 PM
To: jhoudek@nassaucountyny.gov; Beckmann, Diane (USANYE) <Diane.Beckmann@usdoj.gov>
Cc: Sawyer, William <Sawyer.William@epa.gov>; Aber, Bruce <Aber.Bruce@epa.gov>; Gutierrez, Claudia <Gutierrez.Claudia@epa.gov>
Subject: Nassau County Consent Judgment updated, FRE 408 for settlement purposes only
Importance: High

Dear Jane,
I am assisting Diane with the Nassau settlement approval process while she prepares for a trial. Please find attached for your review a revised version of the Consent Judgment. The following changes were made to the document since the last version that was sent to you on May 16 (which you found in your spam folder on May 22). Please let us know if you'd like a redlined version, or you may run a compare with your last version:

General points:

- We removed all references to the CMS as a SEP. Instead, we believe that it is more properly viewed as injunctive relief, and CMS is now contained in the compliance terms. *This makes no substantive difference to Nassau's obligations under the CJ, and reduces certain procedural obligations that are only required for SEPs.* Note the deletion of the SEP section (paragraphs 17 thru 26, including certifications. Instead we made the CMS a separate section under paragraph 13, and we deleted the section on CMS Installation Report and Annual Certification and CMS Completion Report. Instead, we are only going to require certification of completion of CMS requirements or a report in lieu of certification (see paragraphs 18 and 19) and an update of CMS activities as part of the semi-annual reports submitted under paragraph 20.

- We also made changes to the stipulated penalties section, with a general section (now renumbered as paragraph 32, former paragraph 31) for violations of the work requirements, including CMS and a separate section for reporting and recordkeeping violations.

In addition, we made the following changes by paragraph:

Page 1, Paragraph A, last line, add the words "or the Act" after the word "RCRA"
Page 3, Paragraph 5, fourth line, should be a space between the words "new contract"
Page 4, Paragraph 7, add a new definition—"Act" shall mean "RCRA" as defined in this section.

Page 6, Paragraph 11, subparagraph c. The way it was worded was not legally precise. It stated: Each UST system shall have installed electronic release detection monitoring of the under-dispenser containment system, in accordance with 40 C.F.R. Section 280.20(f). This was not correct, because "electronic release detection monitoring" is not required under 280.20(f). Instead, we revised to say: "Each UST System shall have installed an under-dispenser containment system, in accordance with 40 C.F.R. Section 280.20(f). Nassau County has agreed to install electronic sensors and conduct electronic release detection monitoring of the under-dispenser containment system."

Page 6, Subparagraph e. The way it was worded is not legally precise. It stated: For each UST system with overfill prevention equipment that was installed or replaced after October 13, 2015, the ball float overfill device must be replaced or supplemented with either auto-shutoff valves or high level alarms in accordance with 40 C.F.R. Section 280.20©(3). That is not correct. Instead it now says the following: For each UST system with overfill prevention equipment that was installed or replaced after October 13, 2015, the ball float overfill devices may not be used for overfill prevention in accordance with 280.20©(3). The overfill prevention equipment must have either auto-shutoff valves or high level alarms in accordance with 280.20©(1)(ii)(A),(B) or (C).

Paragraph 12 b. Deleted the words "electronic release detection monitoring system" and at the end of this paragraph, inserted a comma and it states ", and shall conduct electronic release detection monitoring for the under-dispenser containment."

Paragraph 15b. 6th line: changed "were " to "was"

Paragraph 21: We changed the citation from 40 C.F.R. Section 280.50(b) to 280.50, because the latter is broader and encompasses 280.50(a)(b)&(c) which all concern reporting of release requirements.

NEW Paragraph 29 (USA's annual report to court): Added to coincide with DOJ policy requirements for consent decrees with state and local governments.

Former Paragraph 34, deleted as unnecessary

Finally, we made a few additional changes to the Note 1 of Appendix A and Note 1 of Appendix C (which is cross referenced in the Modification section), we feel that as written it does not accurately addresses all of our concerns. Note 1 of Appendix B appears Okay, because the modification to the list of facilities there is not tied to any obligation to comply with paragraph 15 or 22.

For Note 1, Appendix A, we believe that there are two scenarios relevant to this appendix. First, modifications to remove a facility from Appendix A could be used because USTs at a facility are permanently closed which involves the process described in both para 15 (d) and para 22. Once all the USTs are permanently closed, the facility no longer is subject to the injunctive relief provisions, and the facility can come out of App. A (subject to EPA approval) . Next, we deleted the transfer language previously set out in this Note because para # 4 (in Applicability section of the CJ) states that transfers do not end Nassau's obligations under the CJ. Second, we left another more open ended scenario (special by request by Nassau subject to EPA approval) whereby a facility might be dropped out of App. A. This is to cover unforeseen and other possible scenarios - sale, foreclosure, transfer of a facility, etc - where we might conclude (notwithstanding para #4) that a facility should be dropped out of App. A. Because the above two scenarios are distinct, we separate (i) and (ii) with an "or."

For Note 1, Appendix C, (the listing of facilities with permanently closed USTs) we decided upon further reflection that that there is only one scenario to be addressed here —any modification to add a facility to Appendix C will be due to the permanent closure of the USTs at that facility. (this again involves both para 15(d) and 22). Thus, there is no need for this Note to speak to other scenarios.

If you have any questions concerning the above changes or the redlined Consent Judgment, please let us know by September 20th. The draft CJ will require pre-approval by the Assistant Attorney General prior to being sent to the Nassau County Legislature. Once we are in agreement on all language, we will submit the CJ for that pre-approval.

Truly,
Matthew Silverman
Assistant U.S. Attorney
Chief of Environmental Litigation
Civil Division, EDNY
718-254-6409

Message

From: Aber, Bruce [Aber.Bruce@epa.gov]
Sent: 9/13/2019 6:26:53 PM
To: Houdek, Jane M [jhoudek@nassaucountyny.gov]
CC: gutierez.claudia@epa.gov
Subject: Fw: Nassau County Consent Judgment updated, FRE 408 for settlement purposes only
Attachments: ENV_ENFORCEMENT-#2828444 Nassau CJ 91319 clean.docx

Hi Jane,
Please confirm your receipt of the email below from the AUSA-EDNY.
Thanks
Bruce

Bruce Aber
Assistant Regional Counsel
U.S. Environmental Protection Agency, Region 2
290 Broadway, 16th Floor
New York, NY 10007-1866
(212) 637-3224 (phone)
aber.bruce@epa.gov

From: Silverman, Matthew (USANYE) <Matthew.Silverman@usdoj.gov>
Sent: Friday, September 13, 2019 12:58 PM
To: jhoudek@nassaucountyny.gov <jhoudek@nassaucountyny.gov>; Beckmann, Diane (USANYE) <Diane.Beckmann@usdoj.gov>
Cc: Sawyer, William <Sawyer.William@epa.gov>; Aber, Bruce <Aber.Bruce@epa.gov>; Gutierrez, Claudia <Gutierrez.Claudia@epa.gov>
Subject: Nassau County Consent Judgment updated, FRE 408 for settlement purposes only

Dear Jane,
I am assisting Diane with the Nassau settlement approval process while she prepares for a trial. Please find attached for your review a revised version of the Consent Judgment. The following changes were made to the document since the last version that was sent to you on May 16 (which you found in your spam folder on May 22). Please let us know if you'd like a redlined version, or you may run a compare with your last version:

General points:

- We removed all references to the CMS as a SEP. Instead, we believe that it is more properly viewed as injunctive relief, and CMS is now contained in the compliance terms. *This makes no substantive difference to Nassau's obligations under the CJ, and reduces certain procedural obligations that are only required for SEPs.* Note the deletion of the SEP section (paragraphs 17 thru 26, including certifications. Instead we made the CMS a separate section under paragraph 13, and we deleted the section on CMS Installation Report and Annual Certification and CMS Completion Report. Instead, we are only going to require certification of completion of CMS requirements or a report in lieu of certification (see paragraphs 18 and 19) and an update of CMS activities as part of the semi-annual reports submitted under paragraph 20.

- We also made changes to the stipulated penalties section, with a general section (now renumbered as paragraph 32, former paragraph 31) for violations of the work requirements, including CMS and a separate section for reporting and recordkeeping violations.

In addition, we made the following changes by paragraph:

Page 1, Paragraph A, last line, add the words "or the Act" after the word "RCRA"
Page 3, Paragraph 5, fourth line, should be a space between the words "new contract"
Page 4, Paragraph 7, add a new definition—"Act" shall mean "RCRA" as defined in this section.

Page 6, Paragraph 11, subparagraph c. The way it was worded was not legally precise. It stated: Each UST system shall have installed electronic release detection monitoring of the under-dispenser containment system, in accordance with 40 C.F.R. Section 280.20(f). This was not correct, because "electronic release detection monitoring" is not required under 280.20(f). Instead, we revised to say: "Each UST System shall have installed an under-dispenser containment system, in accordance with 40 C.F.R. Section 280.20(f). Nassau County has agreed to install electronic sensors and conduct electronic release detection monitoring of the under-dispenser containment system."
Page 6, Subparagraph e. The way it was worded is not legally precise. It stated: For each UST system with overfill prevention equipment that was installed or replaced after October 13, 2015, the ball float overfill device must be replaced or supplemented with either auto-shutoff valves or high level alarms in accordance with 40 C.F.R. Section 280.20©(3). That is not correct. Instead it now says the following: For each UST system with overfill prevention equipment that was installed or replaced after October 13, 2015, the ball float overfill devices may not be used for overfill prevention in accordance with 280.20©(3). The overfill prevention equipment must have either auto-shutoff valves or high level alarms in accordance with 280.20©(1)(ii)(A),(B) or (C).

Paragraph 12 b. Deleted the words "electronic release detection monitoring system" and at the end of this paragraph, inserted a comma and it states ", and shall conduct electronic release detection monitoring for the under-dispenser containment."

Paragraph 15b. 6th line: changed "were " to "was"

Paragraph 21: We changed the citation from 40 C.F.R. Section 280.50(b) to 280.50, because the latter is broader and encompasses 280.50(a)(b)&(c) which all concern reporting of release requirements.

NEW Paragraph 29 (USA's annual report to court): Added to coincide with DOJ policy requirements for consent decrees with state and local governments.

Former Paragraph 34, deleted as unnecessary
Finally, we made a few additional changes to the Note 1 of Appendix A and Note 1 of Appendix C (which is cross referenced in the Modification section), we feel that as written it does not accurately addresses all of our concerns. Note 1 of Appendix B appears Okay, because the modification to the list of facilities there is not tied to any obligation to comply with paragraph 15 or 22.

For Note 1, Appendix A, we believe that there are two scenarios relevant to this appendix. First, modifications to remove a facility from Appendix A could be used because USTs at a facility are permanently closed which involves the process described in both para 15 (d) and para 22. Once all the USTs are permanently closed, the facility no longer is subject to the injunctive relief provisions, and the facility can come out of App. A (subject to EPA approval) . Next, we deleted the transfer language previously set out in this Note because para # 4 (in Applicability section of the CJ) states that transfers do not end Nassau's obligations under the CJ. Second, we left another more open ended scenario (special by request by Nassau subject to EPA approval) whereby a facility might be dropped out of App. A. This is to cover unforeseen and other possible scenarios - sale, foreclosure, transfer of a facility, etc - where we might conclude (notwithstanding para #4) that a facility should be dropped out of App. A. Because the above two scenarios are distinct, we separate (i) and (ii) with an "or."

For Note 1, Appendix C, (the listing of facilities with permanently closed USTs) we decided upon further reflection that that there is only one scenario to be addressed here —any modification to add a facility to Appendix C will be due to the permanent closure of the USTs at that facility. (this again involves both para 15(d) and 22). Thus, there is no need for this Note to speak to other scenarios.

If you have any questions concerning the above changes or the redlined Consent Judgment, please let us know by September 20th. The draft CJ will require pre-approval by the Assistant Attorney General prior to being sent to the Nassau County Legislature. Once we are in agreement on all language, we will submit the CJ for that pre-approval.

Truly,
Matthew Silverman
Assistant U.S. Attorney
Chief of Environmental Litigation
Civil Division, EDNY
718-254-6409

Message

From: Gallagher, Mark (ENRD) [Mark.Gallagher@usdoj.gov]
Sent: 8/28/2019 10:22:49 PM
To: Sawyer, William [Sawyer.William@epa.gov]
CC: Aber, Bruce [Aber.Bruce@epa.gov]
Subject: Ex. 5 AC/AWP/DP

Ex. 5 AC/AWP/DP

From: Sawyer, William <Sawyer.William@epa.gov>
Sent: Wednesday, August 28, 2019 3:57 PM
To: Gallagher, Mark (ENRD) <MGallagher@ENRD.USDOJ.GOV>
Cc: Aber, Bruce <Aber.Bruce@epa.gov>
Subject: Ex. 5 AC/AWP/DP

Ex. 5 AC/AWP/DP

Message

From: Sawyer, William [Sawyer.William@epa.gov]
Sent: 8/28/2019 7:02:25 PM
To: Aber, Bruce [Aber.Bruce@epa.gov]
Subject: Ex. 5 AC/AWP

Ex. 5 AC/AWP

From: Aber, Bruce <Aber.Bruce@epa.gov>
Sent: Thursday, July 11, 2019 1:21 PM
To: Gallagher, Mark (ENRD) <Mark.Gallagher@usdoj.gov>
Cc: Silverman, Matthew (USANYE) <Matthew.Silverman@usdoj.gov>; Beckmann, Diane (USANYE) <Diane.Beckmann@usdoj.gov>; Shapiro, Naomi <Shapiro.Naomi@epa.gov>; Sawyer, William <Sawyer.William@epa.gov>
Subject: Ex. 5 AC/AWP/DP
Importance: High

ENFORCEMENT CONFIDENTIAL

Mark,

Ex. 5 AC/AWP/DP

Ex. 5 AC/AWP/DP

Bruce Aber
Assistant Regional Counsel
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 2
290 Broadway, 16th Floor
New York, NY 10007-1866
(212) 637-3224 (phone)
Aber.bruce@epa.gov

Message

From: Sawyer, William [Sawyer.William@epa.gov]
Sent: 8/21/2019 10:21:16 PM
To: Aber, Bruce [Aber.Bruce@epa.gov]
Subject: FW: Nassau County CMS Talking Points for Susan Bodine
Attachments: Nassau County CMS Region 2 Talking Points August 7 2019.docx

Is this the last version of Talking Points that we are aware of ?

From: Aber, Bruce <Aber.Bruce@epa.gov>
Sent: Wednesday, August 07, 2019 5:53 PM
To: Gutierrez, Claudia <Gutierrez.Claudia@epa.gov>; Voo, Leonard <Voo.Leonard@epa.gov>
Cc: Sawyer, William <Sawyer.William@epa.gov>
Subject: FW: Nassau County CMS Talking Points for Susan Bodine

FY Ex. 5 Deliberative Process (DP),Attorney Client,Attorney Work Product
pre g
this.

Ex. 5 Deliberative Process (DP) & Attorney Client Privilege & Attorney Work Product

Bruce

From: Aber, Bruce
Sent: Wednesday, August 7, 2019 4:36 PM
To: Walker, Yolaanda <Walker.Yolaanda@epa.gov>
Cc: Teter, Royan <Teter.Royan@epa.gov>; Sullivan, Greg <Sullivan.Greg@epa.gov>; Shapiro, Naomi <Shapiro.Naomi@epa.gov>; Schaaf, Eric <Schaaf.Eric@epa.gov>
Subject: RE: Nassau County CMS Talking Points for Susan Bodine
Importance: High

Yolanda,
Please find attached the final Talking Points. We took out the two bracketed paragraphs that we previously c

Please send the attachment t Ex. 5 Deliberative Process (DP) & Attorney Client Privilege & Attorney Work Product on Friday.

Thank you.

Bruce

Sincerely,

Bruce Aber
Assistant Regional Counsel
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 2
290 Broadway, 16th Floor
New York, NY 10007-1866
(212) 637-3224 (phone)
Aber.bruce@epa.gov

From: Walker, Yolaanda
Sent: Wednesday, August 7, 2019 3:20 PM
To: Aber, Bruce <Aber.Bruce@epa.gov>; Shapiro, Naomi <Shapiro.Naomi@epa.gov>
Cc: Teter, Royan <Teter.Royan@epa.gov>
Subject: FW: Enforcement Confidential -Pre-meet (Re:Nassau County Revised Talking Points Judicial Consent Decree Centralized Monitoring System)

Bruce and Naomi,

Ex. 5 Deliberative Process (DP) & Attorney Client Privilege & Attorney Work Product

Yolaanda Walker

****
Yolaanda Walker, Environmental Engineer
Pesticides and Tanks Enforcement Branch
Waste and Chemical Enforcement Division
Office of Civil Enforcement
US Environmental Protection Agency (2249A)
Ph: 202-564-4281, Fax: 202-564-0020
Email: walker.yolaanda@epa.gov
****

Help eliminate environmental violations - report tips and complaints at:
http://www.epa.gov/compliance/complaints/index.html

Confidential: This transmission may contain deliberative, attorney-client, attorney work product or otherwise privileged material. Do not release under FOIA without appropriate review. If you have received this message in error, please delete it from your machine and all storage media, whether electronic or hard copy.

From: Saenz, Diana <Saenz.Diana@epa.gov>
Sent: Wednesday, August 7, 2019 3:16 PM
To: Walker, Yolaanda <Walker.Yolaanda@epa.gov>; Teter, Royan <Teter.Royan@epa.gov>; Sullivan, Greg <Sullivan.Greg@epa.gov>
Subject: RE: Enforcement Confidential -Pre-meet (Re:Nassau County Revised Talking Points Judicial Consent Decree Centralized Monitoring System)

Ex. 5 Deliberative Process (DP) & Attorney Client Privilege & Attorney Work Product

Diana J. Saenz
Associate Director
Waste and Chemical Enforcement Division
Office of Civil Enforcement/ U.S. EPA
1200 Pennsylvania Ave., N.W.
Mailcode 2249A
Washington, D.C. 20460
Phone: (202) 564-4209
Fax: (202) 564-0022
Saenz.Diana@epa.gov

-----Original Appointment-----
From: Walker, Yolaanda
Sent: Wednesday, August 7, 2019 10:48 AM
To: Teter, Royan; Sullivan, Greg
Cc: Saenz, Diana
Subject: Canceled: Enforcement Confidential -Pre-meet (Re:Nassau County Revised Talking Points Judicial Consent Decree Centralized Monitoring System)
When: Wednesday, August 7, 2019 10:30 AM-11:00 AM (UTC-05:00) Eastern Time (US & Canada).
Where: Greg's office
Importance: High

Enforcement Confidential

Thought it would be good for us to meet prior to our call with Region 2. Eric Schaaf a meet with us. Should be include Karin as well?

From: Aber, Bruce <Aber.Bruce@epa.gov>
Sent: Tuesday, August 6, 2019 3:11 PM
To: Teter, Royan <Teter.Royan@epa.gov>; Walker, Yolaanda <Walker.Yolaanda@epa.gov>
Cc: Sullivan, Greg <Sullivan.Greg@epa.gov>; Saenz, Diana <Saenz.Diana@epa.gov>; Schaaf, Eric <Schaaf.Eric@epa.gov>; Simon, Paul <Simon.Paul@epa.gov>; Shapiro, Naomi <Shapiro.Naomi@epa.gov>; Gutierrez, Claudia <Gutierrez.Claudia@epa.gov>
Subject: Nassau County Revised Talking Points Judicial Consent Decree Centralized Monitoring System

ENFORCEMENT CONFIDENTIAL
ATTORNEY-CLIENT PRIVILEGE

Royan and Yolanda,

T[illegible] Ve
h[illegible] v
c[illegible]

C[illegible]
p[illegible] f
C[illegible]

A[illegible]

P[illegible]

Ex. 5 Deliberative Process (DP) & Attorney Client Privilege & Attorney Work Product

Thanks

Bruce

Bruce Aber
Assistant Regional Counsel
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 2
290 Broadway, 16th Floor
New York, NY 10007-1866
(212) 637-3224 (phone)
Aber.bruce@epa.gov

From: Aber, Bruce
Sent: Monday, August 5, 2019 5:04 PM
To: Sullivan, Greg <Sullivan.Greg@epa.gov>
Cc: Shapiro, Naomi <Shapiro.Naomi@epa.gov>; Teter, Royan <Teter.Royan@epa.gov>; Walker, Yolaanda <Walker.Yolaanda@epa.gov>; Saenz, Diana <Saenz.Diana@epa.gov>
Subject: Nassau County Judicial Consent Decree Centralized Monitoring System Talking Points for DOJ
Importance: High

ATTORNEY-CLIENT PRIVILEGE
DELIBERATIVE PROCESS/ENFORCEMENT CONFIDENTIAL
DO NOT RELEASE UNDER FOIA

Hi Greg,
As per your discussion with Naomi, attached are the talking points for you to review. Thanks for your willingness to review –As background, we negotiated an administrative CA/FO in 2012 that called for a Supplemental Environmental Project (SEP) with a municipality, Nassau County, that involved centralized monitoring system (CMS) for all its USTs at approximately 50 facilities. We referred the case to DOJ in 2015 because of the County's non-performance with several injunctive relief requirements under the administrative CA/FO, as well as the CMS SEP. [redacted]

Ex. 5 Deliberative Process (DP) & Attorn

Ex. 5 Deliberative Process (DP) & Attorney Client Privilege & Attorney Work Product

Ex. 5 Deliberative Process (DP) & Attorney Client Privilege & Attorney Work Product

If you have any questions, please call or email me (212 637-3224 or Naomi (212 637-3221 if you have any questions.

Thanks very much in advance.

Bruce

Bruce Aber

Assistant Regional Counsel
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 2
290 Broadway, 16th Floor
New York, NY 10007-1866
(212) 637-3224 (phone)
Aber.bruce@epa.gov

- September 27, 2012: EPA entered into an administrative Consent Agreement/Final Order (CA/FO) with Nassau County on Long Island, N.Y., to resolve substantial non-compliance with UST requirements at approximately 50 facilities.
- County-owned USTs are found at police precincts, public parks, administration buildings, court and correctional facilities, municipal garages, waste water treatment facilities, and bus-depots to fuel government vehicles associated with those public works.
- **Ex. 5 Deliberative Process (DP) & Attorney Client Privilege & Attorney Work Product**
- Each facility lies over a sole source aquifer used for drinking water by County residents.
- The CAFO required the County to pay a civil penalty of $400,000 and to perform injunctive relief to come into compliance. Additionally, the parties agreed that Nassau would undertake two supplemental environmental projects: land acquisition to protect groundwater, and a centralized monitoring system (CMS) to enhance release detection on all the County's UST systems.
- The CMS SEP involved the installation and integration of communication equipment (modems, wiring, data loggers) into Nassau's automated tank gauging (ATG) release detection systems, thereby enabling remote monitoring of release detection of Nassau's USTs 24 hours/7 days per week/365 days per year from a central location. By funneling data from the County's disparate facilities into a single location with the responsibility and expertise for its review, the CMS SEP was intended to enhance Nassau's release detection and improve detection of problems and response time.
- Nassau failed to implement or complete the following injunctive relief requirements well after the deadlines in the CA/FO: release detection, overfill prevention, piping tightness testing and permanent closure. The County completed the first SEP (the land acquisition) but did not implement the CMS SEP.
- In 2014-15, Nassau hired a contractor to audit its compliance with the UST requirements at 52 locations. The contractor found widespread noncompliance with the release detection requirements, in particular.
- EPA referred the case to DOJ on September 30, 2015.
- **Ex. 5 Deliberative Process (DP) & Attorney Client Privilege & Attorney Work Product**

- Ex. 5 Deliberative Process (DP) & Attorney Client Privilege & Attorney Work Product
- Ex. 5 Deliberative Process (DP) & Attorney Client Privilege & Attorney Work Product
  - Ex. 5 Deliberative Process (DP) & Attorney Client Privilege & Attorney Work Product
- Ex. 5 Deliberative Process (DP) & Attorney Client Privilege & Attorney Work Product

-
-
-
-

Ex. 5 Deliberative Process (DP) & Attorney Client Privilege & Attorney Work Product

Message

From: Walker, Yolaanda [Walker.Yolaanda@epa.gov]
Sent: 8/7/2019 8:40:22 PM
To: Aber, Bruce [Aber.Bruce@epa.gov]
Subject: RE: Nassau County CMS Talking Points for Susan Bodine

Thanks Bruce.

Yolaanda Walker

****
Yolaanda Walker, Environmental Engineer
Pesticides and Tanks Enforcement Branch
Waste and Chemical Enforcement Division
Office of Civil Enforcement
US Environmental Protection Agency (2249A)
Ph: 202-564-4281, Fax: 202-564-0020
Email: walker.yolaanda@epa.gov
****

Help eliminate environmental violations - report tips and complaints at:
http://www.epa.gov/compliance/complaints/index.html

Confidential: This transmission may contain deliberative, attorney-client, attorney work product or otherwise privileged material. Do not release under FOIA without appropriate review. If you have received this message in error, please delete it from your machine and all storage media, whether electronic or hard copy.

From: Aber, Bruce <Aber.Bruce@epa.gov>
Sent: Wednesday, August 7, 2019 4:36 PM
To: Walker, Yolaanda <Walker.Yolaanda@epa.gov>
Cc: Teter, Royan <Teter.Royan@epa.gov>; Sullivan, Greg <Sullivan.Greg@epa.gov>; Shapiro, Naomi <Shapiro.Naomi@epa.gov>; Schaaf, Eric <Schaaf.Eric@epa.gov>
Subject: RE: Nassau County CMS Talking Points for Susan Bodine
Importance: High

Yolanda,
Please find attached the final Talking Points. W Ex. 5 Deliberative Process (DP) & Attorney Client Privilege & Attorney Work Product Ex. 5 Deliberative Process (DP) & Attorney Client Privilege & Attorney Work Product .

Please send the attachment to Susan Bodine in Ex. 5 Deliberative Process (DP),Attorney Client,Attorney Work Product k on Friday.

Thank you.

Bruce

Sincerely,

Bruce Aber

Assistant Regional Counsel
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 2
290 Broadway, 16th Floor
New York, NY 10007-1866
(212) 637-3224 (phone)
Aber.bruce@epa.gov

From: Walker, Yolaanda
Sent: Wednesday, August 7, 2019 3:20 PM
To: Aber, Bruce <Aber.Bruce@epa.gov>; Shapiro, Naomi <Shapiro.Naomi@epa.gov>
Cc: Teter, Royan <Teter.Royan@epa.gov>
Subject: FW: Enforcement Confidential -Pre-meet (Re:Nassau County Revised Talking Points Judicial Consent Decree Centralized Monitoring System)

Bruce and Naomi,

Ex. 5 Deliberative Process (DP) & Attorney Client Privilege & Attorney Work Product

Yolaanda Walker

****
Yolaanda Walker, Environmental Engineer
Pesticides and Tanks Enforcement Branch
Waste and Chemical Enforcement Division
Office of Civil Enforcement
US Environmental Protection Agency (2249A)
Ph: 202-564-4281, Fax: 202-564-0020
Email: walker.yolaanda@epa.gov
****

Help eliminate environmental violations - report tips and complaints at:
http://www.epa.gov/compliance/complaints/index.html

Confidential: This transmission may contain deliberative, attorney-client, attorney work product or otherwise privileged material. Do not release under FOIA without appropriate review. If you have received this message in error, please delete it from your machine and all storage media, whether electronic or hard copy.

From: Saenz, Diana <Saenz.Diana@epa.gov>
Sent: Wednesday, August 7, 2019 3:16 PM
To: Walker, Yolaanda <Walker.Yolaanda@epa.gov>; Teter, Royan <Teter.Royan@epa.gov>; Sullivan, Greg <Sullivan.Greg@epa.gov>
Subject: RE: Enforcement Confidential -Pre-meet (Re:Nassau County Revised Talking Points Judicial Consent Decree Centralized Monitoring System)

Ex. 5 Deliberative Process (DP) & Attorney Client Privilege & Attorney Work Product

Diana J. Saenz
Associate Director
Waste and Chemical Enforcement Division
Office of Civil Enforcement/ U.S. EPA
1200 Pennsylvania Ave., N.W.
Mailcode 2249A
Washington, D.C. 20460
Phone: (202) 564-4209
Fax: (202) 564-0022
Saenz.Diana@epa.gov

-----Original Appointment-----
From: Walker, Yolaanda
Sent: Wednesday, August 7, 2019 10:48 AM
To: Teter, Royan; Sullivan, Greg
Cc: Saenz, Diana
Subject: Canceled: Enforcement Confidential -Pre-meet (Re:Nassau County Revised Talking Points Judicial Consent Decree Centralized Monitoring System)
When: Wednesday, August 7, 2019 10:30 AM-11:00 AM (UTC-05:00) Eastern Time (US & Canada).
Where: Greg's office
Importance: High

Enforcement Confidential

Thought it would be good for us to meet prior to our call with Region 2. Eric Schaaf a meet with us. Should be include Karin as well?

From: Aber, Bruce <Aber.Bruce@epa.gov>
Sent: Tuesday, August 6, 2019 3:11 PM
To: Teter, Royan <Teter.Royan@epa.gov>; Walker, Yolaanda <Walker.Yolaanda@epa.gov>
Cc: Sullivan, Greg <Sullivan.Greg@epa.gov>; Saenz, Diana <Saenz.Diana@epa.gov>; Schaaf, Eric <Schaaf.Eric@epa.gov>; Simon, Paul <Simon.Paul@epa.gov>; Shapiro, Naomi <Shapiro.Naomi@epa.gov>; Gutierrez, Claudia <Gutierrez.Claudia@epa.gov>
Subject: Nassau County Revised Talking Points Judicial Consent Decree Centralized Monitoring System

ENFORCEMENT CONFIDENTIAL
ATTORNEY-CLIENT PRIVILEGE

Royan and Yolanda,

Ex. 5 Deliberative Process (DP) & Attorney Client Privilege & Attorney Work Product

Our Regional Counsel, Eric Schaaf, asked us to set up a conference call with you to discuss the Talking Points prior to it being shared with Susan Bodine. Ex. 5 Deliberative Process (DP),Attorney Client,Attorney Work Product on Friday afternoon.

Are you available preferably tomorrow (Wed August 7) at 4:15? Or else on Thursday (August 8) at 1:30?

Please let us know.

Thanks

Bruce

Bruce Aber
Assistant Regional Counsel
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 2
290 Broadway, 16th Floor
New York, NY 10007-1866
(212) 637-3224 (phone)
Aber.bruce@epa.gov

From: Aber, Bruce
Sent: Monday, August 5, 2019 5:04 PM
To: Sullivan, Greg <Sullivan.Greg@epa.gov>
Cc: Shapiro, Naomi <Shapiro.Naomi@epa.gov>; Teter, Royan <Teter.Royan@epa.gov>; Walker, Yolaanda <Walker.Yolaanda@epa.gov>; Saenz, Diana <Saenz.Diana@epa.gov>
Subject: Nassau County Judicial Consent Decree Centralized Monitoring System Talking Points for DOJ
Importance: High

ATTORNEY-CLIENT PRIVILEGE
DELIBERATIVE PROCESS/ENFORCEMENT CONFIDENTIAL
DO NOT RELEASE UNDER FOIA

Hi Greg,
As per your discussion with Naomi, attached are the talking points for you to review. Thanks for your willingness to review –As background, we negotiated an administrative CA/FO in 2012 that called for a supplemental Environmental Project (SEP) with a municipality, Nassau County, that involved centralized monitoring system (CMS) for all its USTs at approximately 50 facilities. We referred the case to DOJ in 2015 because of the County's non-performance with several injunctive relief requirements under the administrative CA/FO, as well as the CMS SEP. We recently settled with Nassau County for Ex. 5 Deliberative Process (DP) & Attorney Client Privilege & Attorney Work Product

Ex. 5 Deliberative Process (DP) & Attorney Client Privilege & Attorney Work Product

If you have any questions, please call or email me (212 637-3224 or Naomi (212 637-3221 if you have any questions.

Thanks very much in advance.

Bruce

Bruce Aber
Assistant Regional Counsel
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 2
290 Broadway, 16th Floor
New York, NY 10007-1866
(212) 637-3224 (phone)
Aber.bruce@epa.gov

Appointment

From: Walker, Yolaanda [Walker.Yolaanda@epa.gov]
Sent: 8/7/2019 5:38:05 PM
To: Aber, Bruce [Aber.Bruce@epa.gov]; Teter, Royan [Teter.Royan@epa.gov]
CC: Sullivan, Greg [Sullivan.Greg@epa.gov]; Saenz, Diana [Saenz.Diana@epa.gov]; Schaaf, Eric [Schaaf.Eric@epa.gov]; Simon, Paul [Simon.Paul@epa.gov]; Shapiro, Naomi [Shapiro.Naomi@epa.gov]; Gutierrez, Claudia [Gutierrez.Claudia@epa.gov]; Voo, Leonard [Voo.Leonard@epa.gov]

Subject: Canceled: Nassau County Revised Talking Points Judicial Consent Decree Centralized Monitoring System
Location: Call in number 1-855-564-1700, conference extension- 1104845, participate code 234567 - HQ folks meet in Greg's office

Start: 8/7/2019 8:30:00 PM
End: 8/7/2019 9:00:00 PM
Show Time As: Free

Importance: High

HQ folks meet in Greg's office.

From: Aber, Bruce <Aber.Bruce@epa.gov>
Sent: Tuesday, August 6, 2019 3:11 PM
To: Teter, Royan <Teter.Royan@epa.gov>; Walker, Yolaanda <Walker.Yolaanda@epa.gov>
Cc: Sullivan, Greg <Sullivan.Greg@epa.gov>; Saenz, Diana <Saenz.Diana@epa.gov>; Schaaf, Eric <Schaaf.Eric@epa.gov>; Simon, Paul <Simon.Paul@epa.gov>; Shapiro, Naomi <Shapiro.Naomi@epa.gov>; Gutierrez, Claudia <Gutierrez.Claudia@epa.gov>
Subject: Nassau County Revised Talking Points Judicial Consent Decree Centralized Monitoring System

ENFORCEMENT CONFIDENTIAL
ATTORNEY-CLIENT PRIVILEGE

Royan and Yolanda,

Ex. 5 Deliberative Process (DP) & Attorney Client Privilege & Attorney Work Product

Are you available preferably tomorrow (Wed August 7) at 4:15? Or else on Thursday (August 8) at 1:30?

Please let us know.

Thanks

Bruce

Bruce Aber

Assistant Regional Counsel
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 2
290 Broadway, 16th Floor
New York, NY 10007-1866
(212) 637-3224 (phone)
Aber.bruce@epa.gov

From: Aber, Bruce
Sent: Monday, August 5, 2019 5:04 PM
To: Sullivan, Greg <Sullivan.Greg@epa.gov>
Cc: Shapiro, Naomi <Shapiro.Naomi@epa.gov>; Teter, Royan <Teter.Royan@epa.gov>; Walker, Yolaanda <Walker.Yolaanda@epa.gov>; Saenz, Diana <Saenz.Diana@epa.gov>
Subject: Nassau County Judicial Consent Decree Centralized Monitoring System Talking Points for DOJ
Importance: High

ATTORNEY-CLIENT PRIVILEGE
DELIBERATIVE PROCESS/ENFORCEMENT CONFIDENTIAL
DO NOT RELEASE UNDER FOIA

Hi Greg,
As per your discussion with Naomi, attached are the talking points for you to review. Thanks for your willingness to review –As background, we negotiated an administrative CA/FO in 2012 that called for a Supplemental Environmental Project (SEP) with a municipality, Nassau County, that involved centralized monitoring system (CMS) for all its USTs at approximately 50 facilities. We referred the case to DOJ in 2015 because of the County's non-performance with several injunctive relief requirements under the administrative

Ex. 5 Deliberative Process (DP) & Attorney Client Privilege & Attorney Work Product

Ex. 5 Deliberative Process (DP) & Attorney Client Privilege & Attorney Work Product

If you have any questions, please call or email me (212 637-3224 or Naomi (212 637-3221 if you have any questions.

Thanks very much in advance.

Bruce

Bruce Aber
Assistant Regional Counsel
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 2
290 Broadway, 16th Floor
New York, NY 10007-1866
(212) 637-3224 (phone)

Aber.bruce@epa.gov

Message

From: Walker, Yolaanda [Walker.Yolaanda@epa.gov]
Sent: 8/7/2019 4:41:04 PM
To: Aber, Bruce [Aber.Bruce@epa.gov]
Subject: RE: Nassau County

Bruce,

Ex. 5 Deliberative Process (DP) & Attorney Client Privilege & Attorney Work Product

Yolaanda Walker

****
Yolaanda Walker, Environmental Engineer
Pesticides and Tanks Enforcement Branch
Waste and Chemical Enforcement Division
Office of Civil Enforcement
US Environmental Protection Agency (2249A)
Ph: 202-564-4281, Fax: 202-564-0020
Email: walker.yolaanda@epa.gov
****

Help eliminate environmental violations - report tips and complaints at:
http://www.epa.gov/compliance/complaints/index.html

Confidential: This transmission may contain deliberative, attorney-client, attorney work product or otherwise privileged material. Do not release under FOIA without appropriate review. If you have received this message in error, please delete it from your machine and all storage media, whether electronic or hard copy.

From: Aber, Bruce <Aber.Bruce@epa.gov>
Sent: Wednesday, August 7, 2019 11:20 AM
To: Walker, Yolaanda <Walker.Yolaanda@epa.gov>
Subject: Nassau County

Hi Yolanda,

Ex. 5 Deliberative Process (DP) & Attorney Client Privilege & Attorney Work Product

After I hear back from you I will inform Eric and see if he still wants to have a call at 4:30.

Thanks

Bruce

Bruce Aber
Assistant Regional Counsel
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 2
290 Broadway, 16th Floor
New York, NY 10007-1866
(212) 637-3224 (phone)
Aber.bruce@epa.gov

Message

From: Shapiro, Naomi [Shapiro.Naomi@epa.gov]
Sent: 8/6/2019 6:13:08 PM
To: Aber, Bruce [Aber.Bruce@epa.gov]
Subject: Nassau County CMS ORC Talking Points August 6 2019 v3.docx
Attachments: Nassau County CMS ORC Talking Points August 6 2019 v3.docx

back at you

Message

From: Shapiro, Naomi [Shapiro.Naomi@epa.gov]
Sent: 8/6/2019 1:12:53 PM
To: Aber, Bruce [Aber.Bruce@epa.gov]
Subject: RE: Ex. 7(A)

If you want me on the line, my calendar's up to date

From: Aber, Bruce <Aber.Bruce@epa.gov>
Sent: Tuesday, August 06, 2019 9:12 AM
To: Shapiro, Naomi <Shapiro.Naomi@epa.gov>
Subject: FW: Ex. 7(A)

fyi

From: Walker, Yolaanda
Sent: Tuesday, August 6, 2019 9:04 AM
To: Aber, Bruce <Aber.Bruce@epa.gov>
Subject: RE: Ex. 7(A)

Bruce,

I have some questions. I will call you later this morning....or let me know when you're available to chat. Thanks.

Yolaanda Walker

****
Yolaanda Walker, Environmental Engineer
Pesticides and Tanks Enforcement Branch
Waste and Chemical Enforcement Division
Office of Civil Enforcement
US Environmental Protection Agency (2249A)
Ph: 202-564-4281, Fax: 202-564-0020
Email: walker.yolaanda@epa.gov
****

EPA United States Environmental Protection Agency

Help eliminate environmental violations - report tips and complaints at:
http://www.epa.gov/compliance/complaints/index.html

Confidential: This transmission may contain deliberative, attorney-client, attorney work product or otherwise privileged material. Do not release under FOIA without appropriate review. If you have received this message in error, please delete it from your machine and all storage media, whether electronic or hard copy.

From: Aber, Bruce <Aber.Bruce@epa.gov>
Sent: Monday, August 5, 2019 5:04 PM
To: Sullivan, Greg <Sullivan.Greg@epa.gov>
Cc: Shapiro, Naomi <Shapiro.Naomi@epa.gov>; Teter, Royan <Teter.Royan@epa.gov>; Walker, Yolaanda <Walker.Yolaanda@epa.gov>; Saenz, Diana <Saenz.Diana@epa.gov>

Subject: Ex. 7(A)
Importance: High

ATTORNEY-CLIENT PRIVILEGE
DELIBERATIVE PROCESS/ENFORCEMENT CONFIDENTIAL
DO NOT RELEASE UNDER FOIA

Hi Greg,

5
e

Ex. 5 Deliberative Process (DP) & Attorney Client Privilege & Attorney Work Product

day

If you have any questions, please call or email me (212 637-3224 or Naomi (212 637-3221 if you have any questions.

Thanks very much in advance.

Bruce

Bruce Aber
Assistant Regional Counsel
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 2
290 Broadway, 16th Floor
New York, NY 10007-1866
(212) 637-3224 (phone)
Aber.bruce@epa.gov

Message

From: Shapiro, Naomi [Shapiro.Naomi@epa.gov]
Sent: 8/6/2019 1:09:44 PM
To: Schaaf, Eric [Schaaf.Eric@epa.gov]
CC: Simon, Paul [Simon.Paul@epa.gov]; Sawyer, William [Sawyer.William@epa.gov]; Aber, Bruce [Aber.Bruce@epa.gov]
Subject: FW: Nassau County Judicial Consent Decree Centralized Monitoring System Talking Points for DOJ
Attachments: Nassau County CMS ORC Talking Points August 5 2019 (002).docx

Importance: High

FYI

G Ex. 5 Deliberative Process (DP),Attorney Client,Attorney Work Product There's some confusion as to Rosemarie's schedule this week, so Greg and Royan (Pesticides and Tanks Enforcement Branch Chief in WCED) agreed to pick up the Nassau talking points and try to get Susan briefed.

From: Aber, Bruce <Aber.Bruce@epa.gov>
Sent: Monday, August 05, 2019 5:04 PM
To: Sullivan, Greg <Sullivan.Greg@epa.gov>
Cc: Shapiro, Naomi <Shapiro.Naomi@epa.gov>; Teter, Royan <Teter.Royan@epa.gov>; Walker, Yolaanda <Walker.Yolaanda@epa.gov>; Saenz, Diana <Saenz.Diana@epa.gov>
Subject: Nassau County Judicial Consent Decree Centralized Monitoring System Talking Points for DOJ
Importance: High

ATTORNEY-CLIENT PRIVILEGE
DELIBERATIVE PROCESS/ENFORCEMENT CONFIDENTIAL
DO NOT RELEASE UNDER FOIA

Hi Greg,
As per your discussion with Naomi, attached are the talking points for you to review. Thanks for your willingness to review –As background, we negotiated an administrative CA/FO in 2012 that called for a Supplemental Environmental Project (SEP) with a municipality, Nassau County, that involved centralized monitoring system (CMS) for all its USTs at approximately 50 facilities. We referred the case to DOJ in 2015 because of the County's non-performance with several injunctive relief requirements under the administrative CA/FO, as well as the CMS SEP.

Ex. 5 Deliberative Process (DP) & Attorney Client Privilege & Attorney Work Product

Ex. 5 Deliberative Process (DP) & Attorney Client Privilege & Attorney Work Product

If you have any questions, please call or email me (212 637-3224 or Naomi (212 637-3221 if you have any questions.

Thanks very much in advance.

Bruce

Bruce Aber

Assistant Regional Counsel
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 2
290 Broadway, 16th Floor
New York, NY 10007-1866
(212) 637-3224 (phone)
Aber.bruce@epa.gov

- September 27, 2012: EPA entered into an administrative Consent Agreement/Final Order (CA/FO) with Nassau County on Long Island, N.Y., to resolve substantial non-compliance with UST requirements at approximately 50 facilities.
- County-owned USTs are found at police precincts, public parks, administration buildings, court and correctional facilities, municipal garages, waste water treatment facilities, and bus-depots to fuel government vehicles associated with those public works.
- **Ex. 5 Deliberative Process (DP) & Attorney Client Privilege & Attorney Work Product**
- Each facility lies over a sole source aquifer used for drinking water by County residents.
- The CAFO required the County to pay a civil penalty of $400,000 and to perform injunctive relief to come into compliance. Additionally, the parties agreed that Nassau would undertake two supplemental environmental projects: land acquisition to protect groundwater, and a centralized monitoring system (CMS) to enhance release detection on all the County's UST systems.
- **Ex. 5 Deliberative Process (DP) & Attorney Client Privilege & Attorney Work Product**

-
-

Ex. 5 Deliberative Process (DP) & Attorney Client Privilege & Attorney Work Product

-
-

for release detection, reporting, or investigation without a CMS.

-
- Ex. 5 Deliberative Process (DP) & Attorney Client Privilege & Attorney Work Product
-
-

Message

From: Shapiro, Naomi [Shapiro.Naomi@epa.gov]
Sent: 8/5/2019 9:59:31 PM
To: Aber, Bruce [Aber.Bruce@epa.gov]
Subject: RE: Ex. 7(A)

thanks for looking

From: Aber, Bruce <Aber.Bruce@epa.gov>
Sent: Monday, August 05, 2019 5:19 PM
To: Shapiro, Naomi <Shapiro.Naomi@epa.gov>
Subject: FW: Ex. 7(A)
Importance: High

Ex. 5 Deliberative Process (DP) & Attorney Client Privilege & Attorney Work Product

From: Aber, Bruce
Sent: Monday, August 5, 2019 5:04 PM
To: Sullivan, Greg <Sullivan.Greg@epa.gov>
Cc: Shapiro, Naomi <Shapiro.Naomi@epa.gov>; Teter, Royan <Teter.Royan@epa.gov>; Walker, Yolaanda <Walker.Yolaanda@epa.gov>; Saenz, Diana <Saenz.Diana@epa.gov>
Subject: Ex. 7(A)
Importance: High

ATTORNEY-CLIENT PRIVILEGE
DELIBERATIVE PROCESS/ENFORCEMENT CONFIDENTIAL
DO NOT RELEASE UNDER FOIA

Hi Greg,

Ex. 5 Deliberative Process (DP) & Attorney Client Privilege & Attorney Work Product

If you have any questions, please call or email me (212 637-3224 or Naomi (212 637-3221 if you have any questions.

Thanks very much in advance.

Bruce

Bruce Aber
Assistant Regional Counsel
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 2
290 Broadway, 16th Floor
New York, NY 10007-1866
(212) 637-3224 (phone)
Aber.bruce@epa.gov

Message

From: Shapiro, Naomi [Shapiro.Naomi@epa.gov]
Sent: 8/5/2019 2:16:39 PM
To: Aber, Bruce [Aber.Bruce@epa.gov]
Subject: FW: Nassau County CMS Draft ORC REDLINED Talking Points August 2 2019.docx
Attachments: Nassau County CMS Draft ORC REDLINED Talking Points August 2 2019.docx

---

From: Shapiro, Naomi
Sent: Friday, August 02, 2019 5:53 PM
To: Aber, Bruce <Aber.Bruce@epa.gov>
Subject: Nassau County CMS Draft ORC REDLINED Talking Points August 2 2019.docx

No response from Royan today. I'll call him first thing on Monday. We can go over the edits in this draft and look at the CJ on Monday too.

Message

From: Sawyer, William [Sawyer.William@epa.gov]
Sent: 11/14/2018 2:22:16 PM
To: Schaaf, Eric [Schaaf.Eric@epa.gov]; Simon, Paul [Simon.Paul@epa.gov]
CC: Shapiro, Naomi [Shapiro.Naomi@epa.gov]; Aber, Bruce [Aber.Bruce@epa.gov]
Subject: New DOJ state/local gov't consent decree policy
Attachments: Consent decree memo.pdf

Ex. 5 Deliberative Process (DP) & Attorney Client Privilege & Attorney Work Product

From: Villatora, Liliana
Sent: Thursday, November 08, 2018 4:21 PM
To: Sawyer, William <Sawyer.William@epa.gov>; Shapiro, Naomi <Shapiro.Naomi@epa.gov>; Feinmark, Phyllis <Feinmark.Phyllis@epa.gov>; Flanagan, Sarah <Flanagan.Sarah@epa.gov>; Lieber, Thomas <Lieber.Thomas@epa.gov>; Capon, Virginia <Capon.Virginia@epa.gov>; Mellott, Deborah <Mellott.Deborah@epa.gov>; Fischer, Douglas <Fischer.Douglas@epa.gov>; Doyle, James <Doyle.James@epa.gov>
Subject: FW: FYI New DOJ state/local gov't consent decree policy

Forwarding in case you haven't seen this

From: Flynn, Peter (ENRD) <Peter.Flynn@usdoj.gov>
Sent: Thursday, November 8, 2018 2:37 PM
To: Villatora, Liliana <Villatora.Liliana@epa.gov>; Velez, Hector <Velez.Hector@epa.gov>; McHale, Mary <McHale.Mary@epa.gov>
Subject: FYI New DOJ state/local gov't consent decree policy

Message

From: Aber, Bruce [Aber.Bruce@epa.gov]
Sent: 7/30/2019 11:12:55 PM
To: Aber, Bruce [Aber.Bruce@epa.gov]
Subject: Nassau Talking Points
Attachments: Nassau County CMS Revised ORC Talking Points CLEAN NPS BA 6 pm July 30 2019 (1).docx

Ex. 5 Deliberative Process (DP) & Attorney Work Product

Message

From: Sawyer, William [Sawyer.William@epa.gov]
Sent: 7/15/2019 6:48:49 PM
To: Aber, Bruce [Aber.Bruce@epa.gov]; Shapiro, Naomi [Shapiro.Naomi@epa.gov]
Subject: Nassau county talking points
Attachments: Nassau County CMS Talking Points 2 PM July 15 2019 (002).docx

Ex. 5 AC/AWP/DP

It is labelled 2 PM version, but is really a 2:45 version .

Should we discuss by phone at 3: 10 PM

Naomi- Bruce and I will call you then

Message

From: Shapiro, Naomi [Shapiro.Naomi@epa.gov]
Sent: 7/15/2019 6:07:22 PM
To: Aber, Bruce [Aber.Bruce@epa.gov]; Sawyer, William [Sawyer.William@epa.gov]
Subject: Nassau ORC Final Draft Talking Points July 15 2019 redNPS.docx
Attachments: Nassau ORC Final Draft Talking Points July 15 2019 redNPS.docx

Message

From: Gallagher, Mark (ENRD) [Mark.Gallagher@usdoj.gov]
Sent: 7/12/2019 4:23:21 AM
To: Aber, Bruce [Aber.Bruce@epa.gov]
CC: Silverman, Matthew (USANYE) [Matthew.Silverman@usdoj.gov]; Beckmann, Diane (USANYE) [Diane.Beckmann@usdoj.gov]; Shapiro, Naomi [Shapiro.Naomi@epa.gov]; Sawyer, William [Sawyer.William@epa.gov]
Subject: Re: Nassau Revised Again Consent Judgment and Early Draft Complaint Detailing Period of Violations

Thanks Bruce. I'll look at this soon.

-Mark

On Jul 11, 2019, at 1:23 PM, Aber, Bruce <Aber.Bruce@epa.gov> wrote:

ENFORCEMENT CONFIDENTIAL

Mark,

Deliberative Process, Attorney Client and Attorney WP

If you have any questions or wish to discuss any of the changes I made further, please let me know.

Bruce

Sincerely,

Bruce Aber
Assistant Regional Counsel
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 2
290 Broadway, 16th Floor
New York, NY 10007-1866
(212) 637-3224 (phone)
Aber.bruce@epa.gov

<Nassau County REDLINED revised July 11 2019 copyWITH CONCUR v3 (004).docx>
<Nassau County CLEAN revised July 11 2019 copyWITH CONCUR v3 (004).docx>
<Nassau County Judicial Complaint Revised Draft December 14 2018 with minor edits 7-08-19 (002).docx>

Message

From: Simon, Paul [Simon.Paul@epa.gov]
Sent: 6/27/2019 9:56:46 PM
To: Aber, Bruce [Aber.Bruce@epa.gov]
Subject: RE: Nassau County

thanks

From: Aber, Bruce
Sent: Thursday, June 27, 2019 5:53 PM
To: Simon, Paul <Simon.Paul@epa.gov>
Cc: Schaaf, Eric <Schaaf.Eric@epa.gov>; Sawyer, William <Sawyer.William@epa.gov>
Subject: Nassau County

Paul,

Deliberative Process, Attorney Client and Attorney WP

Bruce

Bruce Aber
Assistant Regional Counsel
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 2
290 Broadway, 16th Floor
New York, NY 10007-1866
(212) 637-3224 (phone)
Aber.bruce@epa.gov

Message

From: Schaaf, Eric [Schaaf.Eric@epa.gov]
Sent: 7/10/2019 12:59:53 PM
To: Shapiro, Naomi [Shapiro.Naomi@epa.gov]
CC: Simon, Paul [Simon.Paul@epa.gov]; Sawyer, William [Sawyer.William@epa.gov]; Aber, Bruce [Aber.Bruce@epa.gov]
Subject: Re: Nassau County

Ok. Sounds good. Thanks.

Sent from my iPhone

On Jul 9, 2019, at 3:31 PM, Shapiro, Naomi <Shapiro.Naomi@epa.gov> wrote:

Deliberative Process,Attorney WP, and Atty Client

From: Simon, Paul
Sent: Tuesday, July 09, 2019 11:05 AM
To: Shapiro, Naomi <Shapiro.Naomi@epa.gov>
Cc: Sawyer, William <Sawyer.William@epa.gov>; Aber, Bruce <Aber.Bruce@epa.gov>; Schaaf, Eric <Schaaf.Eric@epa.gov>
Subject: RE: Nassau County

Deliberative Process and Attorney WP

From: Shapiro, Naomi
Sent: Tuesday, July 9, 2019 9:52 AM
To: Schaaf, Eric <Schaaf.Eric@epa.gov>; Simon, Paul <Simon.Paul@epa.gov>
Cc: Sawyer, William <Sawyer.William@epa.gov>; Aber, Bruce <Aber.Bruce@epa.gov>

Subject: FW: Nassau County
Importance: High

Deliberative Process and Attorney WP

From: Aber, Bruce
Sent: Monday, July 08, 2019 11:54 AM
To: Shapiro, Naomi <Shapiro.Naomi@epa.gov>
Subject: Nassau County
Importance: High

Naomi,

Deliberative Process and Attorney WP

d

Deliberative Process and Attorney WP

3

Bruce

Bruce Aber
Assistant Regional Counsel
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 2
290 Broadway, 16th Floor
New York, NY 10007-1866
(212) 637-3224 (phone)
Aber.bruce@epa.gov

Message

From: Silverman, Matthew (USANYE) [Matthew.Silverman@usdoj.gov]
Sent: 7/9/2019 5:28:30 PM
To: Gallagher, Mark (ENRD) [Mark.Gallagher@usdoj.gov]
CC: Aber, Bruce [Aber.Bruce@epa.gov]; Beckmann, Diane (USANYE) [Diane.Beckmann@usdoj.gov]; Sawyer, William [Sawyer.William@epa.gov]; Shapiro, Naomi [Shapiro.Naomi@epa.gov]
Subject: RE: Nassau County Settlement Note and Documents

Works for me

From: Gallagher, Mark (ENRD) <MGallagher@ENRD.USDOJ.GOV>
Sent: Tuesday, July 9, 2019 1:26 PM
To: Silverman, Matthew (USANYE) <MSilverman@usa.doj.gov>
Cc: Aber, Bruce <Aber.Bruce@epa.gov>; Beckmann, Diane (USANYE) <DBeckmann@usa.doj.gov>; Sawyer, William <Sawyer.William@epa.gov>; Shapiro, Naomi <Shapiro.Naomi@epa.gov>
Subject: Re: Nassau County Settlement Note and Documents

Hi guys.

I'm still in meetings. But heading back soon. Can we move this call back to 2:15?

M
On Jul 9, 2019, at 12:01 PM, Silverman, Matthew (USANYE) <Matthew.Silverman@usdoj.gov> wrote:

Bruce, can you please send a conference line? I can call in.

Thanks,
matt

From: Gallagher, Mark (ENRD) <MGallagher@ENRD.USDOJ.GOV>
Sent: Tuesday, July 9, 2019 11:50 AM
To: Aber, Bruce <Aber.Bruce@epa.gov>
Cc: Silverman, Matthew (USANYE) <MSilverman@usa.doj.gov>; Beckmann, Diane (USANYE) <DBeckmann@usa.doj.gov>; Sawyer, William <Sawyer.William@epa.gov>; Shapiro, Naomi <Shapiro.Naomi@epa.gov>
Subject: Re: Nassau County Settlement Note and Documents

Sorry just read through the full message. Yes I can call you at 2 pm. Or after

-Mark

On Jul 9, 2019, at 11:44 AM, Aber, Bruce <Aber.Bruce@epa.gov> wrote:

ENFORCEMENT CONFIDENTIAL

Mark,

Deliberative Process, Attorney Client, and Attorney WP

Deliberative Process, Attorney Client and Attorney WP

We are free after 2 p.m. today to discuss.

Thanks.
Bruce
<Nassau County REDLINED July 8 2019 copyWITH CONCUR.docx>
<Nassau County CLEAN July 8 2019 copyWITH CONCUR.docx>
<Nassau County Judicial Complaint Revised Draft December 14 2018 with minor edits 7-08-19 (002).docx>

Message

From: Shapiro, Naomi [Shapiro.Naomi@epa.gov]
Sent: 7/9/2019 4:03:29 PM
To: Aber, Bruce [Aber.Bruce@epa.gov]
Subject: RE: Nassau County Settlement Note and Documents

If you want me on the line, I am available between 3:30 and 4 and then again after 4:30

From: Aber, Bruce
Sent: Tuesday, July 09, 2019 11:42 AM
To: Gallagher, Mark (ENRD) <Mark.Gallagher@usdoj.gov>
Cc: Silverman, Matthew (USANYE) <Matthew.Silverman@usdoj.gov>; Beckmann, Diane (USANYE) <Diane.Beckmann@usdoj.gov>; Sawyer, William <Sawyer.William@epa.gov>; Shapiro, Naomi <Shapiro.Naomi@epa.gov>
Subject: Nassau County Settlement Note and Documents

ENFORCEMENT CONFIDENTIAL

Mark,

Deliberative Process, Attorney Client and Attorney WP

Thanks.
Bruce

Message

From: Beckmann, Diane (USANYE) [Diane.Beckmann@usdoj.gov]
Sent: 7/9/2019 3:48:55 PM
To: Gallagher, Mark (ENRD) [Mark.Gallagher@usdoj.gov]; Aber, Bruce [Aber.Bruce@epa.gov]
CC: Silverman, Matthew (USANYE) [Matthew.Silverman@usdoj.gov]; Sawyer, William [Sawyer.William@epa.gov]; Shapiro, Naomi [Shapiro.Naomi@epa.gov]
Subject: RE: Nassau County Settlement Note and Documents

I am not available today, but please have the call without me.

From: Gallagher, Mark (ENRD) <MGallagher@ENRD.USDOJ.GOV>
Sent: Tuesday, July 9, 2019 11:47 AM
To: Aber, Bruce <Aber.Bruce@epa.gov>
Cc: Silverman, Matthew (USANYE) <MSilverman@usa.doj.gov>; Beckmann, Diane (USANYE) <DBeckmann@usa.doj.gov>; Sawyer, William <Sawyer.William@epa.gov>; Shapiro, Naomi <Shapiro.Naomi@epa.gov>
Subject: Re: Nassau County Settlement Note and Documents

I should be available after 1:30. I can call in

-Mark

On Jul 9, 2019, at 11:44 AM, Aber, Bruce <Aber.Bruce@epa.gov> wrote:

ENFORCEMENT CONFIDENTIAL

Mark,

Deliberative Process, Attorney Client and Attorney WP

We are free after 2 p.m. today to discuss.

Thanks.
Bruce
<Nassau County REDLINED July 8 2019 copyWITH CONCUR.docx>
<Nassau County CLEAN July 8 2019 copyWITH CONCUR.docx>
<Nassau County Judicial Complaint Revised Draft December 14 2018 with minor edits 7-08-19 (002).docx>

Message

From: Personal Privacy
Sent: 7/9/2019 3:22:11 PM
To: Aber, Bruce [Aber.Bruce@epa.gov]
Subject: nassau note and documents
Attachments: Nassau County REDLINED July 8 2019 copyWITH CONCUR.docx; Nassau County CLEAN July 8 2019 copyWITH CONCUR.docx; Nassau County Judicial Complaint Revised Draft December 14 2018 with minor edits 7-08-19 (002).docx

Deliberative Process, Attorney Client and Attorney WP

Message

From: Shapiro, Naomi [Shapiro.Naomi@epa.gov]
Sent: 7/9/2019 3:10:58 PM
To: Simon, Paul [Simon.Paul@epa.gov]
CC: Sawyer, William [Sawyer.William@epa.gov]; Aber, Bruce [Aber.Bruce@epa.gov]; Schaaf, Eric [Schaaf.Eric@epa.gov]
Subject: RE: Nassau County

Bruce is trying to connect with him today

From: Simon, Paul
Sent: Tuesday, July 09, 2019 11:05 AM
To: Shapiro, Naomi <Shapiro.Naomi@epa.gov>
Cc: Sawyer, William <Sawyer.William@epa.gov>; Aber, Bruce <Aber.Bruce@epa.gov>; Schaaf, Eric <Schaaf.Eric@epa.gov>
Subject: RE: Nassau County

\ **Deliberative Process, Attorney Client and Attorney WP**

From: Shapiro, Naomi
Sent: Tuesday, July 9, 2019 9:52 AM
To: Schaaf, Eric <Schaaf.Eric@epa.gov>; Simon, Paul <Simon.Paul@epa.gov>
Cc: Sawyer, William <Sawyer.William@epa.gov>; Aber, Bruce <Aber.Bruce@epa.gov>
Subject: FW: Nassau County
Importance: High

Deliberative Process, Attorney Client and Attorney WP

From: Aber, Bruce
Sent: Monday, July 08, 2019 11:54 AM
To: Shapiro, Naomi <Shapiro.Naomi@epa.gov>
Subject: Nassau County
Importance: High

Naomi,

Deliberative Process, Attorney Client and Attorney WP

Deliberative Process, Attorney Client and Attorney WP

Bruce

Bruce Aber
Assistant Regional Counsel
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 2
290 Broadway, 16th Floor
New York, NY 10007-1866
(212) 637-3224 (phone)
Aber.bruce@epa.gov

Message

From: Aber, Bruce [Aber.Bruce@epa.gov]
Sent: 7/5/2019 3:16:56 PM
To: Gutierrez, Claudia [Gutierrez.Claudia@epa.gov]; Voo, Leonard [Voo.Leonard@epa.gov]
CC: Sawyer, William [Sawyer.William@epa.gov]; shapiro.naomi@epa
Subject: Nassau--Additional Feedback from DOJ on SEP in settlement

ENFORCEMENT CONFIDENTIAL

Deliberative Process, Attorney Client and Attorney WP

Bruce

Message

From: Shapiro, Naomi [Shapiro.Naomi@epa.gov]
Sent: 7/2/2019 9:21:07 PM
To: Aber, Bruce [Aber.Bruce@epa.gov]
Subject: Nassau

From: Schaaf, Eric
Sent: Tuesday, July 02, 2019 5:14 PM
To: Shapiro, Naomi <Shapiro.Naomi@epa.gov>; Simon, Paul <Simon.Paul@epa.gov>
Cc: Sawyer, William <Sawyer.William@epa.gov>
Subject: RE: SEPs in Northport NY case

No problem with that – please let him know the status. I'll check back with OECA next week on Nassau.

From: Shapiro, Naomi
Sent: Tuesday, July 2, 2019 5:12 PM
To: Schaaf, Eric <Schaaf.Eric@epa.gov>; Simon, Paul <Simon.Paul@epa.gov>
Cc: Sawyer, William <Sawyer.William@epa.gov>
Subject: RE: SEPs in Northport NY case

Deliberative Process, Attorney Client and Attorney WP

From: Schaaf, Eric
Sent: Tuesday, July 02, 2019 4:22 PM
To: Kelley, Rosemarie <Kelley.Rosemarie@epa.gov>; Simon, Paul <Simon.Paul@epa.gov>
Cc: Feinmark, Phyllis <Feinmark.Phyllis@epa.gov>; Shapiro, Naomi <Shapiro.Naomi@epa.gov>; Sawyer, William <Sawyer.William@epa.gov>
Subject: RE: SEPs in Northport NY case

Rosemarie – Thanks for the follow-up. **Deliberative Process, Attorney Client and Attorney WP**

From: Kelley, Rosemarie
Sent: Tuesday, July 2, 2019 3:52 PM
To: Schaaf, Eric <Schaaf.Eric@epa.gov>; Simon, Paul <Simon.Paul@epa.gov>
Subject: FW: SEPs in Northport NY case

Eric, Paul—

Deliberative Process, Attorney Client and Attorney WP

Rosemarie

From: Bodine, Susan
Sent: Monday, July 01, 2019 1:25 PM
To: Kelley, Rosemarie <Kelley.Rosemarie@epa.gov>
Cc: Starfield, Lawrence <Starfield.Lawrence@epa.gov>; Traylor, Patrick <traylor.patrick@epa.gov>; Koslow, Karin <Koslow.Karin@epa.gov>; Buterbaugh, Kristin <Buterbaugh.Kristin@epa.gov>; Porter, Amy <Porter.Amy@epa.gov>; Makepeace, Caroline <Makepeace.Caroline@epa.gov>; Fogarty, Johnpc <Fogarty.Johnpc@epa.gov>; Pollins, Mark <Pollins.Mark@epa.gov>; Theis, Joseph <Theis.Joseph@epa.gov>
Subject: RE: SEPs in Northport NY case

Deliberative Process, Attorney Client and Attorney WP

Thanks,

Susa

From: Kelley, Rosemarie
Sent: Monday, July 1, 2019 1:05 PM
To: Bodine, Susan <bodine.susan@epa.gov>
Cc: Starfield, Lawrence <Starfield.Lawrence@epa.gov>; Traylor, Patrick <traylor.patrick@epa.gov>; Koslow, Karin <Koslow.Karin@epa.gov>; Buterbaugh, Kristin <Buterbaugh.Kristin@epa.gov>; Porter, Amy <Porter.Amy@epa.gov>; Makepeace, Caroline <Makepeace.Caroline@epa.gov>; Fogarty, Johnpc <Fogarty.Johnpc@epa.gov>; Pollins, Mark <Pollins.Mark@epa.gov>; Theis, Joseph <Theis.Joseph@epa.gov>
Subject: SEPs in Northport NY case

Susan—

Deliberative Process, Attorney Client and Attorney WP

Rosemarie

Regards,
Rosemarie A. Kelley, Director
Office of Civil Enforcement
Office of Enforcement and Compliance Assurance
202-564-4014

Message

From: Shapiro, Naomi [Shapiro.Naomi@epa.gov]
Sent: 7/2/2019 2:59:30 PM
To: Aber, Bruce [Aber.Bruce@epa.gov]
CC: Sawyer, William [Sawyer.William@epa.gov]
Subject: RE: SEP issue in settlement with Nassau County

Deliberative Process, Attorney Client and Attorney WP

From: Aber, Bruce
Sent: Monday, July 01, 2019 2:48 PM
To: Shapiro, Naomi <Shapiro.Naomi@epa.gov>
Subject: FW: SEP issue in settlement with Nassau County

Just an FYI

From: Simon, Paul
Sent: Monday, July 1, 2019 10:53 AM
To: Kelley, Rosemarie <Kelley.Rosemarie@epa.gov>
Cc: Schaaf, Eric <Schaaf.Eric@epa.gov>; Sawyer, William <Sawyer.William@epa.gov>; Aber, Bruce <Aber.Bruce@epa.gov>
Subject: SEP issue in settlement with Nassau County

Deliberative Process, Attorney Client and Attorney WP

Message

From: Aber, Bruce [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=94B0177E55F4407989C009E179DBBE45-ABER, BRUCE]
Sent: 9/26/2019 10:22:37 PM
To: Personal Privacy
Subject: FW: Nassau County Consent Judgment updated, FRE 408 for settlement purposes only
Attachments: ENV_ENFORCEMENT-#2828444 Nassau CJ 91319 clean.docx

Importance: High

From: Silverman, Matthew (USANYE) [mailto:Matthew.Silverman@usdoj.gov]
Sent: Friday, September 13, 2019 12:58 PM
To: jhoudek@nassaucountyny.gov; Beckmann, Diane (USANYE) <Diane.Beckmann@usdoj.gov>
Cc: Sawyer, William <Sawyer.William@epa.gov>; Aber, Bruce <Aber.Bruce@epa.gov>; Gutierrez, Claudia <Gutierrez.Claudia@epa.gov>
Subject: Nassau County Consent Judgment updated, FRE 408 for settlement purposes only
Importance: High

Dear Jane,
I am assisting Diane with the Nassau settlement approval process while she prepares for a trial. Please find attached for your review a revised version of the Consent Judgment. The following changes were made to the document since the last version that was sent to you on May 16 (which you found in your spam folder on May 22). Please let us know if you'd like a redlined version, or you may run a compare with your last version:

General points:

- We removed all references to the CMS as a SEP. Instead, we believe that it is more properly viewed as injunctive relief, and CMS is now contained in the compliance terms. *This makes no substantive difference to Nassau's obligations under the CJ, and reduces certain procedural obligations that are only required for SEPs.* Note the deletion of the SEP section (paragraphs 17 thru 26, including certifications. Instead we made the CMS a separate section under paragraph 13, and we deleted the section on CMS Installation Report and Annual Certification and CMS Completion Report. Instead, we are only going to require certification of completion of CMS requirements or a report in lieu of certification (see paragraphs 18 and 19) and an update of CMS activities as part of the semi-annual reports submitted under paragraph 20.

- We also made changes to the stipulated penalties section, with a general section (now renumbered as paragraph 32, former paragraph 31) for violations of the work requirements, including CMS and a separate section for reporting and recordkeeping violations.

In addition, we made the following changes by paragraph:

Page 1, Paragraph A, last line, add the words "or the Act" after the word "RCRA"
Page 3, Paragraph 5, fourth line, should be a space between the words "new contract"
Page 4, Paragraph 7, add a new definition—"Act" shall mean "RCRA" as defined in this section.

Page 6, Paragraph 11, subparagraph c. The way it was worded was not legally precise. It stated: Each UST system shall have installed electronic release detection monitoring of the under-dispenser containment system, in accordance with 40 C.F.R. Section 280.20(f). This was not correct, because "electronic release detection monitoring" is not required under 280.20(f). Instead, we revised to say: "Each UST System shall have installed an under-dispenser containment

system, in accordance with 40 C.F.R. Section 280.20(f). Nassau County has agreed to install electronic sensors and conduct electronic release detection monitoring of the under-dispenser containment system."

Page 6, Subparagraph e. The way it was worded is not legally precise. It stated: For each UST system with overfill prevention equipment that was installed or replaced after October 13, 2015, the ball float overfill device must be replaced or supplemented with either auto-shutoff valves or high level alarms in accordance with 40 C.F.R. Section 280.20©(3). That is not correct. Instead it now says the following: For each UST system with overfill prevention equipment that was installed or replaced after October 13, 2015, the ball float overfill devices may not be used for overfill prevention in accordance with 280.20©(3). The overfill prevention equipment must have either auto-shutoff valves or high level alarms in accordance with 280.20©(1)(ii)(A),(B) or (C).

Paragraph 12 b. Deleted the words "electronic release detection monitoring system" and at the end of this paragraph, inserted a comma and it states ", and shall conduct electronic release detection monitoring for the under-dispenser containment."

Paragraph 15b. 6th line: changed "were " to "was"

Paragraph 21: We changed the citation from 40 C.F.R. Section 280.50(b) to 280.50, because the latter is broader and encompasses 280.50(a)(b)&(c) which all concern reporting of release requirements.

NEW Paragraph 29 (USA's annual report to court): Added to coincide with DOJ policy requirements for consent decrees with state and local governments.

Former Paragraph 34, deleted as unnecessary

Finally, we made a few additional changes to the Note 1 of Appendix A and Note 1 of Appendix C (which is cross referenced in the Modification section), we feel that as written it does not accurately addresses all of our concerns. Note 1 of Appendix B appears Okay, because the modification to the list of facilities there is not tied to any obligation to comply with paragraph 15 or 22.

For Note 1, Appendix A, we believe that there are two scenarios relevant to this appendix. First, modifications to remove a facility from Appendix A could be used because USTs at a facility are permanently closed which involves the process described in both para 15 (d) and para 22. Once all the USTs are permanently closed, the facility no longer is subject to the injunctive relief provisions, and the facility can come out of App. A (subject to EPA approval) . Next, we deleted the transfer language previously set out in this Note because para # 4 (in Applicability section of the CJ) states that transfers do not end Nassau's obligations under the CJ. Second, we left another more open ended scenario (special by request by Nassau subject to EPA approval) whereby a facility might be dropped out of App. A. This is to cover unforeseen and other possible scenarios - sale, foreclosure, transfer of a facility, etc - where we might conclude (notwithstanding para #4) that a facility should be dropped out of App. A. Because the above two scenarios are distinct, we separate (i) and (ii) with an "or."

For Note 1, Appendix C, (the listing of facilities with permanently closed USTs) we decided upon further reflection that that there is only one scenario to be addressed here —any modification to add a facility to Appendix C will be due to the permanent closure of the USTs at that facility. (this again involves both para 15(d) and 22). Thus, there is no need for this Note to speak to other scenarios.

If you have any questions concerning the above changes or the redlined Consent Judgment, please let us know by September 20th. The draft CJ will require pre-approval by the Assistant Attorney General prior to being sent to the Nassau County Legislature. Once we are in agreement on all language, we will submit the CJ for that pre-approval.

Truly,
Matthew Silverman
Assistant U.S. Attorney

Chief of Environmental Litigation
Civil Division, EDNY
718-254-6409

Message

From: Aber, Bruce [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=94B0177E55F4407989C009E179DBBE45-ABER, BRUCE]
Sent: 9/26/2019 10:21:48 PM
To: Ex. 6 Personal Privacy (PP)
Subject: FW: Nassau County Revised Consent Judgment Redlined and Clean versions
Attachments: Nassau County REDLINED revised July 11 2019 copyWITH CONCUR v3 (004) (003).docx; Nassau County CLEAN revised July 11 2019 copyWITH CONCUR v3 (004).docx

Importance: High

From: Aber, Bruce
Sent: Monday, September 9, 2019 2:19 PM
To: Gallagher, Mark (ENRD) <Mark.Gallagher@usdoj.gov>; Beckmann, Diane (USANYE) <Diane.Beckmann@usdoj.gov>
Cc: Silverman, Matthew (USANYE) <Matthew.Silverman@usdoj.gov>; Gutierrez, Claudia <Gutierrez.Claudia@epa.gov>
Subject: Nassau County Revised Consent Judgment Redlined and Clean versions
Importance: High

ENFORCEMENT CONFIDENTIAL
ATTORNEY-CLIENT PRIVILEGE
INADMISSIBLE UNDER FRE 408

Mark,

Ex. 5 AC/AWP/DP

Thanks

Bruce

Ex. 5 AC/AWP/DP

Ex. 5 AC/AWP/DP

Ex. 5 AC/AWP/DP

Bruce Aber
Assistant Regional Counsel
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 2
290 Broadway, 16th Floor
New York, NY 10007-1866
(212) 637-3224 (phone)
Aber.bruce@epa.gov

Message

From: Aber, Bruce [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=94B0177E55F4407989C009E179DBBE45-ABER, BRUCE]
Sent: 9/26/2019 10:20:44 PM
To: Personal Privacy
Subject: FW: Nassau CJ revised
Attachments: ENV_ENFORCEMENT-#2828444-v1-NASSAU CJ_190910_+MG 91119 EDNY.DOCX

From: Silverman, Matthew (USANYE) [mailto:Matthew.Silverman@usdoj.gov]
Sent: Wednesday, September 11, 2019 11:40 AM
To: Gallagher, Mark (ENRD) <Mark.Gallagher@usdoj.gov>; Beckmann, Diane (USANYE) <Diane.Beckmann@usdoj.gov>; Sawyer, William <Sawyer.William@epa.gov>; Aber, Bruce <Aber.Bruce@epa.gov>
Subject: RE: Nassau CJ revised

Ex. 5 AC/DP

matt

From: Gallagher, Mark (ENRD) <MGallagher@ENRD.USDOJ.GOV>
Sent: Wednesday, September 11, 2019 11:31 AM
To: Silverman, Matthew (USANYE) <MSilverman@usa.doj.gov>; Beckmann, Diane (USANYE) <DBeckmann@usa.doj.gov>; Willkie Sawyer <sawyer.william@epa.gov>; Bruce Aber <aber.bruce@epa.gov>
Subject: Nassau

Matt, Diane, Willkie and Bruce

Deliberative Process, Attorney Client and Attorney WP

-m

Message

From: Aber, Bruce [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=94B0177E55F4407989C009E179DBBE45-ABER, BRUCE]
Sent: 9/19/2019 8:19:28 PM
To: Sawyer, William [Sawyer.William@epa.gov]
Subject: Nassau Revised Judicial Complaint
Attachments: Nassau County Judicial Complaint Revised Draft BA Sep 19 2019.docx

Importance: High

ENFORCEMENT CONFIDENTIAL

Deliberative Process, Attorney Client and Attorney WP

Bruce

Bruce Aber
Assistant Regional Counsel
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 2
290 Broadway, 16th Floor
New York, NY 10007-1866
(212) 637-3224 (phone)
Aber.bruce@epa.gov

Message

From: Aber, Bruce [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=94B0177E55F4407989C009E179DBBE45-ABER, BRUCE]
Sent: 9/11/2019 4:07:13 PM
To: Sawyer, William [Sawyer.William@epa.gov]
Subject: RE: Nassau CJ revised
Attachments: ENV_ENFORCEMENT-#2828444-v1-NASSAU CJ_190910_+MG 91119 EDNY BA (004).DOCX

Deliberative Process, Attorney Client and Attorney WP

From: Silverman, Matthew (USANYE) [mailto:Matthew.Silverman@usdoj.gov]
Sent: Wednesday, September 11, 2019 11:40 AM
To: Gallagher, Mark (ENRD) <Mark.Gallagher@usdoj.gov>; Beckmann, Diane (USANYE) <Diane.Beckmann@usdoj.gov>; Sawyer, William <Sawyer.William@epa.gov>; Aber, Bruce <Aber.Bruce@epa.gov>
Subject: RE: Nassau CJ revised

Ex. 5 AC/DP

matt

From: Gallagher, Mark (ENRD) <MGallagher@ENRD.USDOJ.GOV>
Sent: Wednesday, September 11, 2019 11:31 AM
To: Silverman, Matthew (USANYE) <MSilverman@usa.doj.gov>; Beckmann, Diane (USANYE) <DBeckmann@usa.doj.gov>; Willkie Sawyer <sawyer.william@epa.gov>; Bruce Aber <aber.bruce@epa.gov>
Subject: Nassau

Deliberative Process, Attorney Client and Attorney WP

-m

Message

From: Aber, Bruce [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=94B0177E55F4407989C009E179DBBE45-ABER, BRUCE]
Sent: 9/9/2019 6:19:14 PM
To: Gallagher, Mark (ENRD) [Mark.Gallagher@usdoj.gov]; Beckmann, Diane (USANYE) [Diane.Beckmann@usdoj.gov]
CC: Silverman, Matthew (USANYE) [Matthew.Silverman@usdoj.gov]; Gutierrez, Claudia [Gutierrez.Claudia@epa.gov]
Subject: Nassau County Revised Consent Judgment Redlined and Clean versions
Attachments: Nassau County REDLINED revised July 11 2019 copyWITH CONCUR v3 (004) (003).docx; Nassau County CLEAN revised July 11 2019 copyWITH CONCUR v3 (004).docx

Importance: High

Deliberative Process, Attorney Client and Attorney WP

Thanks

Bruce

Deliberative Process, Attorney Client and Attorney WP

Deliberative Process, Attorney Client and Attorney WP

Deliberative Process, Attorney Client and Attorney WP

Deliberative Process, Attorney Client and Attorney WP

Sincerely,

Bruce Aber
Assistant Regional Counsel
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 2
290 Broadway, 16th Floor
New York, NY 10007-1866
(212) 637-3224 (phone)
Aber.bruce@epa.gov

Message

From: Aber, Bruce [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=94B0177E55F4407989C009E179DBBE45-ABER, BRUCE]
Sent: 9/6/2019 12:18:07 AM
To: Personal privacy
Subject: FW: Nassau Revised Again Consent Judgment and Early Draft Complaint Detailing Period of Violations
Attachments: Nassau County REDLINED revised July 11 2019 copyWITH CONCUR v3 (004).docx; Nassau County CLEAN revised July 11 2019 copyWITH CONCUR v3 (004).docx; Nassau County Judicial Complaint Revised Draft December 14 2018 with minor edits 7-08-19 (002).docx

Importance: High

From: Aber, Bruce
Sent: Thursday, July 11, 2019 1:21 PM
To: Gallagher, Mark (ENRD) <Mark.Gallagher@usdoj.gov>
Cc: Silverman, Matthew (USANYE) <Matthew.Silverman@usdoj.gov>; Beckmann, Diane (USANYE) <Diane.Beckmann@usdoj.gov>; Shapiro, Naomi <Shapiro.Naomi@epa.gov>; Sawyer, William <Sawyer.William@epa.gov>
Subject: Nassau Revised Again Consent Judgment and Early Draft Complaint Detailing Period of Violations
Importance: High

ENFORCEMENT CONFIDENTIAL

Mark,

Deliberative Process, Attorney Client and Attorney WP

Deliberative Process, Attorney Client and Attorney WP

Bruce

Sincerely,

Bruce Aber
Assistant Regional Counsel
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 2
290 Broadway, 16th Floor
New York, NY 10007-1866
(212) 637-3224 (phone)
Aber.bruce@epa.gov

Message

From: Aber, Bruce [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=94B0177E55F4407989C009E179DBBE45-ABER, BRUCE]
Sent: 8/30/2019 2:25:54 PM
To: Gutierrez, Claudia [Gutierrez.Claudia@epa.gov]
CC: Voo, Leonard [Voo.Leonard@epa.gov]
Subject: RE: Nassau County concurence package

Ok. Will do.

From: Gutierrez, Claudia
Sent: Friday, August 30, 2019 9:03 AM
To: Aber, Bruce <Aber.Bruce@epa.gov>
Cc: Voo, Leonard <Voo.Leonard@epa.gov>
Subject: Re: Nassau County concurence package

Ex. 5 Deliberative Process (DP)

Claudia Gutierrez
212-637-5036

On Aug 29, 2019, at 4:58 PM, Aber, Bruce <Aber.Bruce@epa.gov> wrote:

Deliberative Process, Attorney Client and Attorney WP

From: Sawyer, William <Sawyer.William@epa.gov>
Sent: Tuesday, August 27, 2019 2:12 PM
To: Aber, Bruce <Aber.Bruce@epa.gov>
Subject: Nassau County concurence package

Deliberative Process, Attorney Client and Attorney WP

Message

From: Aber, Bruce [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=94B0177E55F4407989C009E179DBBE45-ABER, BRUCE]
Sent: 8/29/2019 9:03:08 PM
To: Gutierrez, Claudia [Gutierrez.Claudia@epa.gov]; Voo, Leonard [Voo.Leonard@epa.gov]
Subject: Ex. 7(A)

I forgot to mark the two prior emails i forwarded to you this afternoon as Enforcement Confidential/Attorney-Client Privilege/Do Not Release Under FOIA
Please consider them as such. Thanks.
See below.
ENFORCEMENT CONFIDENTIAL
ATTORNEY-CLIENT PRIVILEGE
DO NOT RELEASE UNDER FOIA

From: Sawyer, William <Sawyer.William@epa.gov>
Sent: Tuesday, August 27, 2019 4:20 PM
To: Silverman, Matthew (USANYE) <Matthew.Silverman@usdoj.gov>; Beckmann, Diane (USANYE) <Diane.Beckmann@usdoj.gov>; Aber, Bruce <Aber.Bruce@epa.gov>; Gallagher, Mark (ENRD) <Mark.Gallagher@usdoj.gov>
Subject: RE: Ex. 7(A)

Deliberative Process, Attorney Client and Attorney WP

From: Silverman, Matthew (USANYE) <Matthew.Silverman@usdoj.gov>
Sent: Tuesday, August 27, 2019 3:19 PM
To: Sawyer, William <Sawyer.William@epa.gov>; Beckmann, Diane (USANYE) <Diane.Beckmann@usdoj.gov>; Aber, Bruce <Aber.Bruce@epa.gov>; Gallagher, Mark (ENRD) <Mark.Gallagher@usdoj.gov>
Subject: RE: Ex. 7(A)

Deliberative Process, Attorney Client and Attorney WP

Matthew Silverman
Assistant U.S. Attorney
Chief of Environmental Litigation

Civil Division, EDNY
718-254-6409

From: Sawyer, William <Sawyer.William@epa.gov>
Sent: Tuesday, August 27, 2019 2:08 PM
To: Silverman, Matthew (USANYE) <MSilverman@usa.doj.gov>; Beckmann, Diane (USANYE) <DBeckmann@usa.doj.gov>; Aber, Bruce <Aber.Bruce@epa.gov>; Gallagher, Mark (ENRD) <MGallagher@ENRD.USDOJ.GOV>
Subject: Ex. 7(A)

Deliberative Process, Attorney Client and Attorney WP

Deliberative Process, Attorney Client and Attorney WP

Message

From: Aber, Bruce [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=94B0177E55F4407989C009E179DBBE45-ABER, BRUCE]
Sent: 8/29/2019 8:53:58 PM
To: Gutierrez, Claudia [Gutierrez.Claudia@epa.gov]; Voo, Leonard [Voo.Leonard@epa.gov]
Subject: Fw: Nassau County UST judicial settlement

Deliberative Process, Attorney Client and Attorney WP

Bruce

From: Sawyer, William <Sawyer.William@epa.gov>
Sent: Tuesday, August 27, 2019 2:07 PM
To: Silverman, Matthew (USANYE) <Matthew.Silverman@usdoj.gov>; Beckmann, Diane (USANYE) <Diane.Beckmann@usdoj.gov>; Aber, Bruce <Aber.Bruce@epa.gov>; Gallagher, Mark (ENRD) <Mark.Gallagher@usdoj.gov>
Subject: Nassau County UST judicial settlement

Deliberative Process, Attorney Client and Attorney WP

Message

From: Aber, Bruce [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=94B0177E55F4407989C009E179DBBE45-ABER, BRUCE]
Sent: 8/28/2019 7:30:21 PM
To: Sawyer, William [Sawyer.William@epa.gov]
Subject: RE: talking points- possible additional point to emphasize

See my responses below.

From: Sawyer, William
Sent: Wednesday, August 28, 2019 1:58 PM
To: Aber, Bruce <Aber.Bruce@epa.gov>
Subject: talking points- possible additional point to emphasize

Deliberative Process, Attorney Client and Attorney WP

Message

From: Aber, Bruce [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=94B0177E55F4407989C009E179DBBE45-ABER, BRUCE]
Sent: 8/28/2019 7:19:47 PM
To: Sawyer, William [Sawyer.William@epa.gov]
Subject: RE: Nassau revised 7/11 version of the CJ

See my responses below.

From: Sawyer, William
Sent: Wednesday, August 28, 2019 3:02 PM
To: Aber, Bruce <Aber.Bruce@epa.gov>
Subject: Nassau revised 7/11 version of the CJ

Deliberative Process, Attorney Client and Attorney WP

Deliberative Process, Attorney Client and Attorney WP

From: Aber, Bruce <Aber.Bruce@epa.gov>
Sent: Thursday, July 11, 2019 1:21 PM
To: Gallagher, Mark (ENRD) <Mark.Gallagher@usdoj.gov>
Cc: Silverman, Matthew (USANYE) <Matthew.Silverman@usdoj.gov>; Beckmann, Diane (USANYE) <Diane.Beckmann@usdoj.gov>; Shapiro, Naomi <Shapiro.Naomi@epa.gov>; Sawyer, William <Sawyer.William@epa.gov>
Subject: Nassau Revised Again Consent Judgment and Early Draft Complaint Detailing Period of Violations
Importance: High

ENFORCEMENT CONFIDENTIAL

Mark,

Deliberative Process, Attorney Client and Attorney WP

If you have any questions or wish to discuss any of the changes I made further, please let me know.

Bruce

Sincerely,

Bruce Aber
Assistant Regional Counsel
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 2
290 Broadway, 16th Floor
New York, NY 10007-1866
(212) 637-3224 (phone)
Aber.bruce@epa.gov

Message

From: Aber, Bruce [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=94B0177E55F4407989C009E179DBBE45-ABER, BRUCE]
Sent: 8/28/2019 5:11:55 PM
To: Gallagher, Mark (ENRD) [Mark.Gallagher@usdoj.gov]
CC: Sawyer, William [Sawyer.William@epa.gov]
Subject: Talking Points for Nassau County CMS Injunctive Relief
Attachments: Nassau County CMS Region 2 Talking Points August 7 2019.docx

Importance: High

See attached the Talking Points.

Bruce

Bruce Aber
Assistant Regional Counsel
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 2
290 Broadway, 16th Floor
New York, NY 10007-1866
(212) 637-3224 (phone)
Aber.bruce@epa.gov

Message

From: Aber, Bruce [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=94B0177E55F4407989C009E179DBBE45-ABER, BRUCE]
Sent: 3/5/2019 10:53:18 PM
To: Sawyer, William [Sawyer.William@epa.gov]
Subject: FW: Concerns About Nassau County Offer

FYI

From: Aber, Bruce
Sent: Tuesday, March 5, 2019 5:51 PM
To: 'Beckmann, Diane (USANYE)' <Diane.Beckmann@usdoj.gov>
Subject: Concerns About Nassau County Offer

Hi Diane,

Deliberative Process, Attorney Client and Attorney WP

Bruce

Bruce Aber
Assistant Regional Counsel
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 2
290 Broadway, 16th Floor
New York, NY 10007-1866
(212) 637-3224 (phone)

Aber.bruce@epa.gov

Message

From: Aber, Bruce [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=94B0177E55F4407989C009E179DBBE45-ABER, BRUCE]
Sent: 3/5/2019 7:57:08 PM
To: Sawyer, William [Sawyer.William@epa.gov]
Subject: FW: Request for Additional Information from Nassau County

Fyi

From: Gutierrez, Claudia
Sent: Tuesday, March 5, 2019 1:59 PM
To: Aber, Bruce <Aber.Bruce@epa.gov>; Beckmann, Diane (USANYE) <Diane.Beckmann@usdoj.gov>
Subject: RE: Request for Additional Information from Nassau County

Ex. 5 AC/DP

212-637-5036

From: Aber, Bruce
Sent: Tuesday, March 5, 2019 1:55 PM
To: Beckmann, Diane (USANYE) <Diane.Beckmann@usdoj.gov>
Cc: Gutierrez, Claudia <Gutierrez.Claudia@epa.gov>
Subject: FW: Request for Additional Information from Nassau County

Hi Diane,

Ex. 5 AC/DP

Thanks
Bruce

From: Aber, Bruce
Sent: Thursday, February 28, 2019 11:36 AM
To: 'Beckmann, Diane (USANYE)' <Diane.Beckmann@usdoj.gov>
Cc: Gutierrez, Claudia <Gutierrez.Claudia@epa.gov>
Subject: Request for Additional Information from Nassau County

Deliberative Process, Attorney Client and Attorney WP

Deliberative Process, Attorney Client and Attorney WP

Please let us know.

Thanks

Bruce

Bruce Aber
Assistant Regional Counsel
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 2
290 Broadway, 16th Floor
New York, NY 10007-1866
(212) 637-3224 (phone)
Aber.bruce@epa.gov

Message

From: Aber, Bruce [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=94B0177E55F4407989C009E179DBBE45-ABER, BRUCE]
Sent: 2/27/2019 9:15:09 PM
To: Gutierrez, Claudia [Gutierrez.Claudia@epa.gov]
Subject: DRAFT EMAIL TO SEND TO DIANE AND THEN JANE

Please review the draft email below and let me know if you have any tweaks to it?

DRAFT
ATTORNEY CLIENT PRIVILEGE
DO NOT RELEASE UNDER FOIA

Jane,

Deliberative Process, Attorney Client and Attorney WP

Deliberative Process, Attorney Client and Attorney WP

Thanks

Bruce

Bruce Aber
Assistant Regional Counsel
Office of Regional Counsel

U.S. Environmental Protection Agency, Region 2
290 Broadway, 16th Floor
New York, NY 10007-1866
(212) 637-3224 (phone)
Aber.bruce@epa.gov

Message

From: Aber, Bruce [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=94B0177E55F4407989C009E179DBBE45-ABER, BRUCE]
Sent: 3/7/2019 9:34:17 PM
To: Gutierrez, Claudia [Gutierrez.Claudia@epa.gov]
CC: Sawyer, William [Sawyer.William@epa.gov]
Subject: Nassau Summary of Phone Call

ENFORCEMENT CONFIDENTIAL
ATTORNEY-CLIENT PRIVILEGE
DO NOT RELEASE UNDER FOIA

Deliberative Process, Attorney Client and Attorney WP

Bruce

Bruce Aber
Assistant Regional Counsel
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 2
290 Broadway, 16th Floor
New York, NY 10007-1866
(212) 637-3224 (phone)
Aber.bruce@epa.gov

Message

From: Aber, Bruce [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=94B0177E55F4407989C009E179DBBE45-ABER, BRUCE]
Sent: 3/7/2019 1:32:02 AM
To: Sawyer, William [Sawyer.William@epa.gov]
Subject: FW: Request for Additional Information from Nassau County

Ex. 5 AC/DP

From: Beckmann, Diane (USANYE) [mailto:Diane.Beckmann@usdoj.gov]
Sent: Wednesday, March 6, 2019 7:44 AM
To: Aber, Bruce <Aber.Bruce@epa.gov>
Subject: RE: Request for Additional Information from Nassau County

Ex. 5 AC/DP

From: Aber, Bruce <Aber.Bruce@epa.gov>
Sent: Tuesday, March 5, 2019 1:55 PM
To: Beckmann, Diane (USANYE) <DBeckmann@usa.doj.gov>
Cc: Gutierrez, Claudia <Gutierrez.Claudia@epa.gov>
Subject: FW: Request for Additional Information from Nassau County

Hi Diane,

Ex. 5 AC/DP

Thanks
Bruce

From: Aber, Bruce
Sent: Thursday, February 28, 2019 11:36 AM
To: 'Beckmann, Diane (USANYE)' <Diane.Beckmann@usdoj.gov>
Cc: Gutierrez, Claudia <Gutierrez.Claudia@epa.gov>
Subject: Request for Additional Information from Nassau County

Deliberative Process, Attorney Client and Attorney WP

Deliberative Process, Attorney Client and Attorney WP

Please let us know.

Thanks

Bruce

Bruce Aber
Assistant Regional Counsel
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 2
290 Broadway, 16th Floor
New York, NY 10007-1866
(212) 637-3224 (phone)
Aber.bruce@epa.gov

Message

From: Aber, Bruce [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=94B0177E55F4407989C009E179DBBE45-ABER, BRUCE]
Sent: 8/21/2019 10:25:24 PM
To: Sawyer, William [Sawyer.William@epa.gov]
Subject: RE: Nassau County CMS Talking Points for Susan Bodine

Yes

From: Sawyer, William
Sent: Wednesday, August 21, 2019 6:21 PM
To: Aber, Bruce <Aber.Bruce@epa.gov>
Subject: FW: Nassau County CMS Talking Points for Susan Bodine

Is this the last version of Talking Points that we are aware of ?

From: Aber, Bruce <Aber.Bruce@epa.gov>
Sent: Wednesday, August 07, 2019 5:53 PM
To: Gutierrez, Claudia <Gutierrez.Claudia@epa.gov>; Voo, Leonard <Voo.Leonard@epa.gov>
Cc: Sawyer, William <Sawyer.William@epa.gov>
Subject: FW: Nassau County CMS Talking Points for Susan Bodine

Deliberative Process, Attorney Client and Attorney WP

Bruce

From: Aber, Bruce
Sent: Wednesday, August 7, 2019 4:36 PM
To: Walker, Yolaanda <Walker.Yolaanda@epa.gov>
Cc: Teter, Royan <Teter.Royan@epa.gov>; Sullivan, Greg <Sullivan.Greg@epa.gov>; Shapiro, Naomi <Shapiro.Naomi@epa.gov>; Schaaf, Eric <Schaaf.Eric@epa.gov>
Subject: RE: Nassau County CMS Talking Points for Susan Bodine
Importance: High

Yolanda,

Deliberative Process, Attorney Client and Attorney WP

Thank you.

Bruce

Sincerely,

Bruce Aber
Assistant Regional Counsel
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 2
290 Broadway, 16th Floor
New York, NY 10007-1866
(212) 637-3224 (phone)
Aber.bruce@epa.gov

From: Walker, Yolaanda
Sent: Wednesday, August 7, 2019 3:20 PM
To: Aber, Bruce <Aber.Bruce@epa.gov>; Shapiro, Naomi <Shapiro.Naomi@epa.gov>
Cc: Teter, Royan <Teter.Royan@epa.gov>
Subject: FW: Enforcement Confidential -Pre-meet (Re:Nassau County Revised Talking Points Judicial Consent Decree Centralized Monitoring System)

Bruce and Naomi,

Deliberative Process, Attorney Client and Attorney WP

Yolaanda Walker

****
Yolaanda Walker, Environmental Engineer
Pesticides and Tanks Enforcement Branch
Waste and Chemical Enforcement Division
Office of Civil Enforcement
US Environmental Protection Agency (2249A)
Ph: 202-564-4281, Fax: 202-564-0020
Email: walker.yolaanda@epa.gov
****

Help eliminate environmental violations - report tips and complaints at:
http://www.epa.gov/compliance/complaints/index.html

Confidential: This transmission may contain deliberative, attorney-client, attorney work product or otherwise privileged material. Do not release under FOIA without appropriate review. If you have received this message in error, please delete it from your machine and all storage media, whether electronic or hard copy.

From: Saenz, Diana <Saenz.Diana@epa.gov>
Sent: Wednesday, August 7, 2019 3:16 PM
To: Walker, Yolaanda <Walker.Yolaanda@epa.gov>; Teter, Royan <Teter.Royan@epa.gov>; Sullivan, Greg <Sullivan.Greg@epa.gov>
Subject: RE: Enforcement Confidential -Pre-meet (Re:Nassau County Revised Talking Points Judicial Consent Decree Centralized Monitoring System)

Deliberative Process, Attorney Client and Attorney WP

Diana J. Saenz
Associate Director
Waste and Chemical Enforcement Division
Office of Civil Enforcement/ U.S. EPA
1200 Pennsylvania Ave., N.W.
Mailcode 2249A
Washington, D.C. 20460
Phone: (202) 564-4209
Fax: (202) 564-0022
Saenz.Diana@epa.gov

-----Original Appointment-----
From: Walker, Yolaanda
Sent: Wednesday, August 7, 2019 10:48 AM
To: Teter, Royan; Sullivan, Greg
Cc: Saenz, Diana
Subject: Canceled: Enforcement Confidential -Pre-meet (Re:Nassau County Revised Talking Points Judicial Consent Decree Centralized Monitoring System)
When: Wednesday, August 7, 2019 10:30 AM-11:00 AM (UTC-05:00) Eastern Time (US & Canada).
Where: Greg's office
Importance: High

Enforcement Confidential

Thought it would be good for us to meet prior to our call with Region 2. Eric Schaaf a meet with us. Should be include Karin as well?

From: Aber, Bruce <Aber.Bruce@epa.gov>
Sent: Tuesday, August 6, 2019 3:11 PM
To: Teter, Royan <Teter.Royan@epa.gov>; Walker, Yolaanda <Walker.Yolaanda@epa.gov>
Cc: Sullivan, Greg <Sullivan.Greg@epa.gov>; Saenz, Diana <Saenz.Diana@epa.gov>; Schaaf, Eric <Schaaf.Eric@epa.gov>; Simon, Paul <Simon.Paul@epa.gov>; Shapiro, Naomi <Shapiro.Naomi@epa.gov>; Gutierrez, Claudia <Gutierrez.Claudia@epa.gov>
Subject: Nassau County Revised Talking Points Judicial Consent Decree Centralized Monitoring System

ENFORCEMENT CONFIDENTIAL
ATTORNEY-CLIENT PRIVILEGE

Royan and Yolanda,

Deliberative Process, Attorney Client and Attorney WP

Deliberative Process, Attorney Client and Attorney WP

Are you available preferably tomorrow (Wed August 7) at 4:15? Or else on Thursday (August 8) at 1:30?

Please let us know.

Thanks

Bruce

Bruce Aber
Assistant Regional Counsel
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 2
290 Broadway, 16th Floor
New York, NY 10007-1866
(212) 637-3224 (phone)
Aber.bruce@epa.gov

From: Aber, Bruce
Sent: Monday, August 5, 2019 5:04 PM
To: Sullivan, Greg <Sullivan.Greg@epa.gov>
Cc: Shapiro, Naomi <Shapiro.Naomi@epa.gov>; Teter, Royan <Teter.Royan@epa.gov>; Walker, Yolaanda <Walker.Yolaanda@epa.gov>; Saenz, Diana <Saenz.Diana@epa.gov>
Subject: Nassau County Judicial Consent Decree Centralized Monitoring System Talking Points for DOJ
Importance: High

ATTORNEY-CLIENT PRIVILEGE
DELIBERATIVE PROCESS/ENFORCEMENT CONFIDENTIAL
DO NOT RELEASE UNDER FOIA

Hi Greg,
As per your discussion with Naomi, attached are the talking points for you to review. Thanks for your willingness to review –As background, we negotiated an administrative CA/FO in 2012 that called for a Supplemental Environmental Project (SEP) with a municipality, Nassau County, that involved centralized monitoring system (CMS) for all its USTs at approximately 50 facilities. We referred the case to DOJ in 2015 because of the County's non-performance with several injunctive relief requirements under the administrative CA/FO, as well as the CMS SEP. **deliberate privilege, atty work prod, atty client**

Deliberative Process, Attorney Client and Attorney WP

Deliberative Process, Attorney Client and Attorney WP

If you have any questions, please call or email me (212 637-3224 or Naomi (212 637-3221 if you have any questions.

Thanks very much in advance.

Bruce

Bruce Aber
Assistant Regional Counsel
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 2
290 Broadway, 16th Floor
New York, NY 10007-1866
(212) 637-3224 (phone)
Aber.bruce@epa.gov

Message

From: Aber, Bruce [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=94B0177E55F4407989C009E179DBBE45-ABER, BRUCE]
Sent: 8/21/2019 8:32:32 PM
To: Sawyer, William [Sawyer.William@epa.gov]
Subject: FW: Nassau County Consent Decree

Deliberative Process, Attorney Client and Attorney WP

Deliberative Process, Attorney Client and Attorney WP

From: Aber, Bruce
Sent: Wednesday, August 21, 2019 2:48 PM
To: Sawyer, William <Sawyer.William@epa.gov>
Subject: FW: Nassau County Consent Decree

Deliberative Process, Attorney Client and Attorney WP

Bruce

From: Kelley, Rosemarie
Sent: Wednesday, August 21, 2019 2:41 PM
To: Sawyer, William <Sawyer.William@epa.gov>; Koslow, Karin <Koslow.Karin@epa.gov>; Sullivan, Greg <Sullivan.Greg@epa.gov>
Cc: Schaaf, Eric <Schaaf.Eric@epa.gov>; Aber, Bruce <Aber.Bruce@epa.gov>; Shapiro, Naomi <Shapiro.Naomi@epa.gov>
Subject: RE: Nassau County Consent Decree

Wilkie—

Deliberative Process, Attorney Client and Attorney WP

Rosemarie

From: Sawyer, William <Sawyer.William@epa.gov>
Sent: Friday, August 16, 2019 5:25 PM
To: Kelley, Rosemarie <Kelley.Rosemarie@epa.gov>; Koslow, Karin <Koslow.Karin@epa.gov>; Sullivan, Greg <Sullivan.Greg@epa.gov>
Cc: Schaaf, Eric <Schaaf.Eric@epa.gov>; Aber, Bruce <Aber.Bruce@epa.gov>; Shapiro, Naomi <Shapiro.Naomi@epa.gov>
Subject: FW: Nassau County Consent Decree

Deliberative Process, Attorney Client and Attorney WP

Thanks.

From: Sawyer, William
Sent: Monday, August 12, 2019 12:16 PM
To: Kelley, Rosemarie <Kelley.Rosemarie@epa.gov>; Sullivan, Greg <Sullivan.Greg@epa.gov>
Cc: Walker, Yolaanda <Walker.Yolaanda@epa.gov>; Teter, Royan <Teter.Royan@epa.gov>; Aber, Bruce <Aber.Bruce@epa.gov>; Shapiro, Naomi <Shapiro.Naomi@epa.gov>; Schaaf, Eric <Schaaf.Eric@epa.gov>
Subject: Nassau County Consent Decree

Deliberative Process, Attorney Client and Attorney WP

Thanks.

From: Teter, Royan
Sent: Friday, August 09, 2019 5:13 PM
To: Shapiro, Naomi <Shapiro.Naomi@epa.gov>; Walker, Yolaanda <Walker.Yolaanda@epa.gov>
Cc: Aber, Bruce <Aber.Bruce@epa.gov>; Sawyer, William <Sawyer.William@epa.gov>
Subject: RE: Nassau County Consent Decree

Deliberative Process, Attorney Client and Attorney WP

From: Shapiro, Naomi <Shapiro.Naomi@epa.gov>
Sent: Friday, August 9, 2019 4:41 PM
To: Teter, Royan <Teter.Royan@epa.gov>; Walker, Yolaanda <Walker.Yolaanda@epa.gov>
Cc: Aber, Bruce <Aber.Bruce@epa.gov>; Sawyer, William <Sawyer.William@epa.gov>
Subject: Nassau County Consent Decree

Ex. 5 AC/AWP/DP

Message

From: Aber, Bruce [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=94B0177E55F4407989C009E179DBBE45-ABER, BRUCE]
Sent: 8/7/2019 9:53:05 PM
To: Gutierrez, Claudia [Gutierrez.Claudia@epa.gov]; Voo, Leonard [Voo.Leonard@epa.gov]
CC: Sawyer, William [Sawyer.William@epa.gov]
Subject: FW: Nassau County CMS Talking Points for Susan Bodine
Attachments: Nassau County CMS Region 2 Talking Points August 7 2019.docx

Deliberative Process, Attorney Client and Attorney WP

Bruce

From: Aber, Bruce
Sent: Wednesday, August 7, 2019 4:36 PM
To: Walker, Yolaanda <Walker.Yolaanda@epa.gov>
Cc: Teter, Royan <Teter.Royan@epa.gov>; Sullivan, Greg <Sullivan.Greg@epa.gov>; Shapiro, Naomi <Shapiro.Naomi@epa.gov>; Schaaf, Eric <Schaaf.Eric@epa.gov>
Subject: RE: Nassau County CMS Talking Points for Susan Bodine
Importance: High

Yolanda,

Deliberative Process, Attorney Client and Attorney WP

Bruce

Sincerely,

Bruce Aber
Assistant Regional Counsel
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 2
290 Broadway, 16th Floor
New York, NY 10007-1866
(212) 637-3224 (phone)
Aber.bruce@epa.gov

From: Walker, Yolaanda
Sent: Wednesday, August 7, 2019 3:20 PM
To: Aber, Bruce <Aber.Bruce@epa.gov>; Shapiro, Naomi <Shapiro.Naomi@epa.gov>

Cc: Teter, Royan <Teter.Royan@epa.gov>
Subject: FW: Enforcement Confidential -Pre-meet (Re:Nassau County Revised Talking Points Judicial Consent Decree Centralized Monitoring System)

Bruce and Naomi,

Deliberative Process, Attorney Client and Attorney WP

Yolaanda Walker

****
Yolaanda Walker, Environmental Engineer
Pesticides and Tanks Enforcement Branch
Waste and Chemical Enforcement Division
Office of Civil Enforcement
US Environmental Protection Agency (2249A)
Ph: 202-564-4281, Fax: 202-564-0020
Email: walker.yolaanda@epa.gov
****

Help eliminate environmental violations - report tips and complaints at:
http://www.epa.gov/compliance/complaints/index.html

Confidential: This transmission may contain deliberative, attorney-client, attorney work product or otherwise privileged material. Do not release under FOIA without appropriate review. If you have received this message in error, please delete it from your machine and all storage media, whether electronic or hard copy.

From: Saenz, Diana <Saenz.Diana@epa.gov>
Sent: Wednesday, August 7, 2019 3:16 PM
To: Walker, Yolaanda <Walker.Yolaanda@epa.gov>; Teter, Royan <Teter.Royan@epa.gov>; Sullivan, Greg <Sullivan.Greg@epa.gov>
Subject: RE: Enforcement Confidential -Pre-meet (Re:Nassau County Revised Talking Points Judicial Consent Decree Centralized Monitoring System)

Deliberative Process, Attorney Client and Attorney WP

Diana J. Saenz
Associate Director
Waste and Chemical Enforcement Division
Office of Civil Enforcement/ U.S. EPA
1200 Pennsylvania Ave., N.W.

Mailcode 2249A
Washington, D.C. 20460
Phone: (202) 564-4209
Fax: (202) 564-0022
Saenz.Diana@epa.gov

-----Original Appointment-----
From: Walker, Yolaanda
Sent: Wednesday, August 7, 2019 10:48 AM
To: Teter, Royan; Sullivan, Greg
Cc: Saenz, Diana
Subject: Canceled: Enforcement Confidential -Pre-meet (Re:Nassau County Revised Talking Points Judicial Consent Decree Centralized Monitoring System)
When: Wednesday, August 7, 2019 10:30 AM-11:00 AM (UTC-05:00) Eastern Time (US & Canada).
Where: Greg's office
Importance: High

Enforcement Confidential

Deliberative Process, Attorney Client and Attorney WP

From: Aber, Bruce <Aber.Bruce@epa.gov>
Sent: Tuesday, August 6, 2019 3:11 PM
To: Teter, Royan <Teter.Royan@epa.gov>; Walker, Yolaanda <Walker.Yolaanda@epa.gov>
Cc: Sullivan, Greg <Sullivan.Greg@epa.gov>; Saenz, Diana <Saenz.Diana@epa.gov>; Schaaf, Eric <Schaaf.Eric@epa.gov>; Simon, Paul <Simon.Paul@epa.gov>; Shapiro, Naomi <Shapiro.Naomi@epa.gov>; Gutierrez, Claudia <Gutierrez.Claudia@epa.gov>
Subject: Nassau County Revised Talking Points Judicial Consent Decree Centralized Monitoring System

ENFORCEMENT CONFIDENTIAL
ATTORNEY-CLIENT PRIVILEGE

Royan and Yolanda,

Deliberative Process, Attorney Client and Attorney WP

Thanks

Bruce

Bruce Aber
Assistant Regional Counsel
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 2
290 Broadway, 16th Floor
New York, NY 10007-1866
(212) 637-3224 (phone)
Aber.bruce@epa.gov

From: Aber, Bruce
Sent: Monday, August 5, 2019 5:04 PM
To: Sullivan, Greg <Sullivan.Greg@epa.gov>
Cc: Shapiro, Naomi <Shapiro.Naomi@epa.gov>; Teter, Royan <Teter.Royan@epa.gov>; Walker, Yolaanda <Walker.Yolaanda@epa.gov>; Saenz, Diana <Saenz.Diana@epa.gov>
Subject: Nassau County Judicial Consent Decree Centralized Monitoring System Talking Points for DOJ
Importance: High

ATTORNEY-CLIENT PRIVILEGE
DELIBERATIVE PROCESS/ENFORCEMENT CONFIDENTIAL
DO NOT RELEASE UNDER FOIA

Hi Greg,

Deliberative Process, Attorney Client and Attorney WP

If you have any questions, please call or email me (212 637-3224 or Naomi (212 637-3221 if you have any questions.

Thanks very much in advance.

Bruce

Bruce Aber
Assistant Regional Counsel
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 2
290 Broadway, 16th Floor
New York, NY 10007-1866

(212) 637-3224 (phone)
Aber.bruce@epa.gov

Message

From: Aber, Bruce [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=94B0177E55F4407989C009E179DBBE45-ABER, BRUCE]
Sent: 8/7/2019 8:35:53 PM
To: Walker, Yolaanda [Walker.Yolaanda@epa.gov]
CC: Teter, Royan [Teter.Royan@epa.gov]; Sullivan, Greg [Sullivan.Greg@epa.gov]; Shapiro, Naomi [Shapiro.Naomi@epa.gov]; Schaaf, Eric [Schaaf.Eric@epa.gov]
Subject: RE: Nassau County CMS Talking Points for Susan Bodine
Attachments: Nassau County CMS Region 2 Talking Points August 7 2019.docx

Importance: High

Yolanda,

Deliberative Process, Attorney Client and Attorney WP

Thank you.

Bruce

Sincerely,

Bruce Aber
Assistant Regional Counsel
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 2
290 Broadway, 16th Floor
New York, NY 10007-1866
(212) 637-3224 (phone)
Aber.bruce@epa.gov

From: Walker, Yolaanda
Sent: Wednesday, August 7, 2019 3:20 PM
To: Aber, Bruce <Aber.Bruce@epa.gov>; Shapiro, Naomi <Shapiro.Naomi@epa.gov>
Cc: Teter, Royan <Teter.Royan@epa.gov>
Subject: FW: Enforcement Confidential -Pre-meet (Re:Nassau County Revised Talking Points Judicial Consent Decree Centralized Monitoring System)

Bruce and Naomi,

Deliberative Process, Attorney Client and Attorney WP

Yolaanda Walker

****

Yolaanda Walker, Environmental Engineer
Pesticides and Tanks Enforcement Branch

Waste and Chemical Enforcement Division
Office of Civil Enforcement
US Environmental Protection Agency (2249A)
Ph: 202-564-4281, Fax: 202-564-0020
Email: walker.yolaanda@epa.gov
****

Help eliminate environmental violations - report tips and complaints at:
http://www.epa.gov/compliance/complaints/index.html

Confidential: This transmission may contain deliberative, attorney-client, attorney work product or otherwise privileged material. Do not release under FOIA without appropriate review. If you have received this message in error, please delete it from your machine and all storage media, whether electronic or hard copy.

From: Saenz, Diana <Saenz.Diana@epa.gov>
Sent: Wednesday, August 7, 2019 3:16 PM
To: Walker, Yolaanda <Walker.Yolaanda@epa.gov>; Teter, Royan <Teter.Royan@epa.gov>; Sullivan, Greg <Sullivan.Greg@epa.gov>
Subject: RE: Enforcement Confidential -Pre-meet (Re:Nassau County Revised Talking Points Judicial Consent Decree Centralized Monitoring System)

Deliberative Process, Attorney Client and Attorney WP

Diana J. Saenz
Associate Director
Waste and Chemical Enforcement Division
Office of Civil Enforcement/ U.S. EPA
1200 Pennsylvania Ave., N.W.
Mailcode 2249A
Washington, D.C. 20460
Phone: (202) 564-4209
Fax: (202) 564-0022
Saenz.Diana@epa.gov

-----Original Appointment-----
From: Walker, Yolaanda
Sent: Wednesday, August 7, 2019 10:48 AM
To: Teter, Royan; Sullivan, Greg
Cc: Saenz, Diana
Subject: Canceled: Enforcement Confidential -Pre-meet (Re:Nassau County Revised Talking Points Judicial Consent Decree Centralized Monitoring System)
When: Wednesday, August 7, 2019 10:30 AM-11:00 AM (UTC-05:00) Eastern Time (US & Canada).

Where: Greg's office
Importance: High

Enforcement Confidential

Deliberative Process, Attorney Client and Attorney WP

From: Aber, Bruce <Aber.Bruce@epa.gov>
Sent: Tuesday, August 6, 2019 3:11 PM
To: Teter, Royan <Teter.Royan@epa.gov>; Walker, Yolaanda <Walker.Yolaanda@epa.gov>
Cc: Sullivan, Greg <Sullivan.Greg@epa.gov>; Saenz, Diana <Saenz.Diana@epa.gov>; Schaaf, Eric <Schaaf.Eric@epa.gov>; Simon, Paul <Simon.Paul@epa.gov>; Shapiro, Naomi <Shapiro.Naomi@epa.gov>; Gutierrez, Claudia <Gutierrez.Claudia@epa.gov>
Subject: Nassau County Revised Talking Points Judicial Consent Decree Centralized Monitoring System

ENFORCEMENT CONFIDENTIAL
ATTORNEY-CLIENT PRIVILEGE

Royan and Yolanda,

We

Deliberative Process, Attorney Client and Attorney WP

Are you available preferably tomorrow (Wed August 7) at 4:15? Or else on Thursday (August 8) at 1:30?

Please let us know.

Thanks

Bruce

Bruce Aber
Assistant Regional Counsel
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 2
290 Broadway, 16th Floor
New York, NY 10007-1866
(212) 637-3224 (phone)
Aber.bruce@epa.gov

From: Aber, Bruce
Sent: Monday, August 5, 2019 5:04 PM
To: Sullivan, Greg <Sullivan.Greg@epa.gov>

Cc: Shapiro, Naomi <Shapiro.Naomi@epa.gov>; Teter, Royan <Teter.Royan@epa.gov>; Walker, Yolaanda <Walker.Yolaanda@epa.gov>; Saenz, Diana <Saenz.Diana@epa.gov>
Subject: Nassau County Judicial Consent Decree Centralized Monitoring System Talking Points for DOJ
Importance: High

ATTORNEY-CLIENT PRIVILEGE
DELIBERATIVE PROCESS/ENFORCEMENT CONFIDENTIAL
DO NOT RELEASE UNDER FOIA

Hi Greg,

Deliberative Process, Attorney Client and Attorney WP

y

If you have any questions, please call or email me (212 637-3224 or Naomi (212 637-3221 if you have any questions.

Thanks very much in advance.

Bruce

Bruce Aber
Assistant Regional Counsel
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 2
290 Broadway, 16th Floor
New York, NY 10007-1866
(212) 637-3224 (phone)
Aber.bruce@epa.gov

Message

From: Aber, Bruce [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=94B0177E55F4407989C009E179DBBE45-ABER, BRUCE]
Sent: 8/7/2019 7:52:38 PM
To: Schaaf, Eric [Schaaf.Eric@epa.gov]; Shapiro, Naomi [Shapiro.Naomi@epa.gov]
Subject: FW: Enforcement Confidential -Pre-meet (Re:Nassau County Revised Talking Points Judicial Consent Decree Centralized Monitoring System)

Deliberative Process, Attorney Client and Attorney WP

From: Walker, Yolaanda
Sent: Wednesday, August 7, 2019 3:20 PM
To: Aber, Bruce <Aber.Bruce@epa.gov>; Shapiro, Naomi <Shapiro.Naomi@epa.gov>
Cc: Teter, Royan <Teter.Royan@epa.gov>
Subject: FW: Enforcement Confidential -Pre-meet (Re:Nassau County Revised Talking Points Judicial Consent Decree Centralized Monitoring System)

Bruce and Naomi,

Deliberative Process, Attorney Client and Attorney WP

Yolaanda Walker

****
Yolaanda Walker, Environmental Engineer
Pesticides and Tanks Enforcement Branch
Waste and Chemical Enforcement Division
Office of Civil Enforcement
US Environmental Protection Agency (2249A)
Ph: 202-564-4281, Fax: 202-564-0020
Email: walker.yolaanda@epa.gov
****

Help eliminate environmental violations - report tips and complaints at:
http://www.epa.gov/compliance/complaints/index.html

Confidential: This transmission may contain deliberative, attorney-client, attorney work product or otherwise privileged material. Do not release under FOIA without appropriate review. If you have received this message in error, please delete it from your machine and all storage media, whether electronic or hard copy.

From: Saenz, Diana <Saenz.Diana@epa.gov>
Sent: Wednesday, August 7, 2019 3:16 PM
To: Walker, Yolaanda <Walker.Yolaanda@epa.gov>; Teter, Royan <Teter.Royan@epa.gov>; Sullivan, Greg

<Sullivan.Greg@epa.gov>
Subject: RE: Enforcement Confidential -Pre-meet (Re:Nassau County Revised Talking Points Judicial Consent Decree Centralized Monitoring System)

Deliberative Process, Attorney Client and Attorney WP

Associate Director
Waste and Chemical Enforcement Division
Office of Civil Enforcement/ U.S. EPA
1200 Pennsylvania Ave., N.W.
Mailcode 2249A
Washington, D.C. 20460
Phone: (202) 564-4209
Fax: (202) 564-0022
Saenz.Diana@epa.gov

-----Original Appointment-----
From: Walker, Yolaanda
Sent: Wednesday, August 7, 2019 10:48 AM
To: Teter, Royan; Sullivan, Greg
Cc: Saenz, Diana
Subject: Canceled: Enforcement Confidential -Pre-meet (Re:Nassau County Revised Talking Points Judicial Consent Decree Centralized Monitoring System)
When: Wednesday, August 7, 2019 10:30 AM-11:00 AM (UTC-05:00) Eastern Time (US & Canada).
Where: Greg's office
Importance: High

Enforcement Confidential

Deliberative Process, Attorney Client and Attorney WP

From: Aber, Bruce <Aber.Bruce@epa.gov>
Sent: Tuesday, August 6, 2019 3:11 PM
To: Teter, Royan <Teter.Royan@epa.gov>; Walker, Yolaanda <Walker.Yolaanda@epa.gov>
Cc: Sullivan, Greg <Sullivan.Greg@epa.gov>; Saenz, Diana <Saenz.Diana@epa.gov>; Schaaf, Eric <Schaaf.Eric@epa.gov>; Simon, Paul <Simon.Paul@epa.gov>; Shapiro, Naomi <Shapiro.Naomi@epa.gov>; Gutierrez, Claudia <Gutierrez.Claudia@epa.gov>
Subject: Nassau County Revised Talking Points Judicial Consent Decree Centralized Monitoring System

ENFORCEMENT CONFIDENTIAL
ATTORNEY-CLIENT PRIVILEGE

Royan and Yolanda,

Deliberative Process, Attorney Client and Attorney WP

Please let us know.

Thanks

Bruce

Bruce Aber
Assistant Regional Counsel
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 2
290 Broadway, 16th Floor
New York, NY 10007-1866
(212) 637-3224 (phone)
Aber.bruce@epa.gov

From: Aber, Bruce
Sent: Monday, August 5, 2019 5:04 PM
To: Sullivan, Greg <Sullivan.Greg@epa.gov>
Cc: Shapiro, Naomi <Shapiro.Naomi@epa.gov>; Teter, Royan <Teter.Royan@epa.gov>; Walker, Yolaanda <Walker.Yolaanda@epa.gov>; Saenz, Diana <Saenz.Diana@epa.gov>
Subject: Nassau County Judicial Consent Decree Centralized Monitoring System Talking Points for DOJ
Importance: High

ATTORNEY-CLIENT PRIVILEGE
DELIBERATIVE PROCESS/ENFORCEMENT CONFIDENTIAL
DO NOT RELEASE UNDER FOIA

Hi Greg,

Deliberative Process, Attorney Client and Attorney WP

Deliberative Process, Attorney Client and Attorney WP

If you have any questions, please call or email me (212 637-3224 or Naomi (212 637-3221 if you have any questions.

Thanks very much in advance.

Bruce

Bruce Aber
Assistant Regional Counsel
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 2
290 Broadway, 16th Floor
New York, NY 10007-1866
(212) 637-3224 (phone)
Aber.bruce@epa.gov

Message

From: Aber, Bruce [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=94B0177E55F4407989C009E179DBBE45-ABER, BRUCE]
Sent: 8/7/2019 3:54:22 PM
To: Gutierrez, Claudia [Gutierrez.Claudia@epa.gov]
Subject: FW: Nassau County

From: Aber, Bruce
Sent: Wednesday, August 7, 2019 11:20 AM
To: Walker, Yolaanda <Walker.Yolaanda@epa.gov>
Subject: Nassau County

Hi Yolanda,

Deliberative Process, Attorney Client and Attorney WP

After I hear back from you I will inform Eric and see if he still wants to have a call at 4:30.

Thanks

Bruce

Bruce Aber
Assistant Regional Counsel
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 2
290 Broadway, 16th Floor
New York, NY 10007-1866
(212) 637-3224 (phone)
Aber.bruce@epa.gov

Message

From: Aber, Bruce [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=94B0177E55F4407989C009E179DBBE45-ABER, BRUCE]
Sent: 8/6/2019 4:54:04 PM
To: Shapiro, Naomi [Shapiro.Naomi@epa.gov]
Subject: Nassau revised talking points
Attachments: Nassau County CMS ORC Talking Points August 6 2019.docx

Deliberative Process and Attorney WP

Bruce Aber
Assistant Regional Counsel
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 2
290 Broadway, 16th Floor
New York, NY 10007-1866
(212) 637-3224 (phone)
Aber.bruce@epa.gov

Message

From: Aber, Bruce [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=94B0177E55F4407989C009E179DBBE45-ABER, BRUCE]
Sent: 8/6/2019 2:40:29 PM
To: Gutierrez, Claudia [Gutierrez.Claudia@epa.gov]
Subject: FW: Nassau County Sessions Memo and CMS issue

See below.

From: Shapiro, Naomi
Sent: Tuesday, August 6, 2019 10:39 AM
To: Aber, Bruce <Aber.Bruce@epa.gov>; Walker, Yolaanda <Walker.Yolaanda@epa.gov>
Subject: RE: Nassau County Sessions Memo and CMS issue

Good morning Yolaanda.

Deliberative Process, Attorney Client Privilege and Attorney WP

Talk to u soon,
Naomi

From: Aber, Bruce <Aber.Bruce@epa.gov>
Sent: Tuesday, August 06, 2019 9:38 AM
To: Walker, Yolaanda <Walker.Yolaanda@epa.gov>
Cc: Shapiro, Naomi <Shapiro.Naomi@epa.gov>
Subject: Nassau County Sessions Memo and CMS issue

ENFORCEMENT CONFIDENTIAL

Hi Yolanda,

Deliberative Process, Attorney Client Privilege and Attorney WP

Bruce

Bruce Aber
Assistant Regional Counsel
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 2
290 Broadway, 16th Floor
New York, NY 10007-1866
(212) 637-3224 (phone)
Aber.bruce@epa.gov

Message

From: Aber, Bruce [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=94B0177E55F4407989C009E179DBBE45-ABER, BRUCE]
Sent: 8/6/2019 2:37:53 PM
To: Gutierrez, Claudia [Gutierrez.Claudia@epa.gov]
Subject: FW: Nassau County Sessions Memo and CMS issue

fyi

From: Aber, Bruce
Sent: Tuesday, August 6, 2019 9:38 AM
To: Walker, Yolaanda <Walker.Yolaanda@epa.gov>
Cc: Shapiro, Naomi <Shapiro.Naomi@epa.gov>
Subject: Nassau County Sessions Memo and CMS issue

ENFORCEMENT CONFIDENTIAL

Hi Yolanda,

Deliberative Process, Attorney Client Privilege and Attorney WP

Bruce

Bruce Aber
Assistant Regional Counsel
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 2
290 Broadway, 16th Floor
New York, NY 10007-1866
(212) 637-3224 (phone)
Aber.bruce@epa.gov

Message

From: Aber, Bruce [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=94B0177E55F4407989C009E179DBBE45-ABER, BRUCE]
Sent: 8/6/2019 1:41:02 PM
To: Gutierrez, Claudia [Gutierrez.Claudia@epa.gov]
Subject: FW: Nassau County Judicial Consent Decree Centralized Monitoring System Talking Points for DOJ

Importance: High

Are you available to talk with me and HQ about this?

From: Walker, Yolaanda
Sent: Tuesday, August 6, 2019 9:35 AM
To: Aber, Bruce <Aber.Bruce@epa.gov>
Subject: RE: Nassau County Judicial Consent Decree Centralized Monitoring System Talking Points for DOJ

I will call you at 11 am and I set up call with my branch chief to discuss further and allow him an opportunity to ask any questions.

Yolaanda Walker

****
Yolaanda Walker, Environmental Engineer
Pesticides and Tanks Enforcement Branch
Waste and Chemical Enforcement Division
Office of Civil Enforcement
US Environmental Protection Agency (2249A)
Ph: 202-564-4281, Fax: 202-564-0020
Email: walker.yolaanda@epa.gov
****

Help eliminate environmental violations - report tips and complaints at:
http://www.epa.gov/compliance/complaints/index.html

Confidential: This transmission may contain deliberative, attorney-client, attorney work product or otherwise privileged material. Do not release under FOIA without appropriate review. If you have received this message in error, please delete it from your machine and all storage media, whether electronic or hard copy.

From: Aber, Bruce <Aber.Bruce@epa.gov>
Sent: Tuesday, August 6, 2019 9:11 AM
To: Walker, Yolaanda <Walker.Yolaanda@epa.gov>
Subject: RE: Nassau County Judicial Consent Decree Centralized Monitoring System Talking Points for DOJ

If not this morning I am free all afternoon.

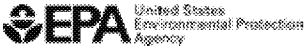
From: Walker, Yolaanda
Sent: Tuesday, August 6, 2019 9:04 AM
To: Aber, Bruce <Aber.Bruce@epa.gov>
Subject: RE: Nassau County Judicial Consent Decree Centralized Monitoring System Talking Points for DOJ

Bruce,

I have some questions. I will call you later this morning....or let me know when you're available to chat. Thanks.

Yolaanda Walker

****
Yolaanda Walker, Environmental Engineer
Pesticides and Tanks Enforcement Branch
Waste and Chemical Enforcement Division
Office of Civil Enforcement
US Environmental Protection Agency (2249A)
Ph: 202-564-4281, Fax: 202-564-0020
Email: walker.yolaanda@epa.gov
****



Help eliminate environmental violations - report tips and complaints at:
http://www.epa.gov/compliance/complaints/index.html

Confidential: This transmission may contain deliberative, attorney-client, attorney work product or otherwise privileged material. Do not release under FOIA without appropriate review. If you have received this message in error, please delete it from your machine and all storage media, whether electronic or hard copy.

From: Aber, Bruce <Aber.Bruce@epa.gov>
Sent: Monday, August 5, 2019 5:04 PM
To: Sullivan, Greg <Sullivan.Greg@epa.gov>
Cc: Shapiro, Naomi <Shapiro.Naomi@epa.gov>; Teter, Royan <Teter.Royan@epa.gov>; Walker, Yolaanda <Walker.Yolaanda@epa.gov>; Saenz, Diana <Saenz.Diana@epa.gov>
Subject: Nassau County Judicial Consent Decree Centralized Monitoring System Talking Points for DOJ
Importance: High

ATTORNEY-CLIENT PRIVILEGE
DELIBERATIVE PROCESS/ENFORCEMENT CONFIDENTIAL
DO NOT RELEASE UNDER FOIA

Hi Greg,
As per your discussion with Naomi, attached are the talking points for you to review. Thanks for your willingness to review –As background, we negotiated an administrative CA/FO in 2012 that called for a Supplemental Environmental Project (SEP) with a municipality, Nassau County, that involved centralized monitoring system (CMS) for all its USTs at approximately 50 facilities. We referred the case to DOJ in 2015 because of the County's non-performance with several injunctive relief requirements under the administrative CA/FO, as well as the CMS SEP.

Deliberative Process, Attorney Client Privilege and Attorney WP

Deliberative Process, Attorney Client Privilege and Attorney WP

Deliberative Process, Attorney Client Privilege and Attorney WP

Deliberative Process, Attorney Client Privilege and Attorney WP

Bruce

Bruce Aber
Assistant Regional Counsel
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 2
290 Broadway, 16th Floor
New York, NY 10007-1866
(212) 637-3224 (phone)
Aber.bruce@epa.gov

Message

From: Aber, Bruce [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=94B0177E55F4407989C009E179DBBE45-ABER, BRUCE]
Sent: 8/6/2019 1:40:00 PM
To: Shapiro, Naomi [Shapiro.Naomi@epa.gov]

Deliberative Process, Attorney Client Privilege and Attorney WP

From: Aber, Bruce
Sent: Tuesday, August 6, 2019 9:38 AM
To: Walker, Yolaanda <Walker.Yolaanda@epa.gov>
Cc: Shapiro, Naomi <Shapiro.Naomi@epa.gov>
Subject: Nassau County Sessions Memo and CMS issue

ENFORCEMENT CONFIDENTIAL

Hi Yolanda,

Deliberative Process, Attorney Client Privilege and Attorney WP

Bruce

Bruce Aber
Assistant Regional Counsel
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 2
290 Broadway, 16th Floor
New York, NY 10007-1866
(212) 637-3224 (phone)
Aber.bruce@epa.gov

Message

From: Aber, Bruce [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=94B0177E55F4407989C009E179DBBE45-ABER, BRUCE]
Sent: 8/6/2019 1:09:57 PM
To: Walker, Yolaanda [Walker.Yolaanda@epa.gov]
Subject: RE: Nassau County Judicial Consent Decree Centralized Monitoring System Talking Points for DOJ

Hi, free now –I plan to go to a training at 10 to 12 this morning.

From: Walker, Yolaanda
Sent: Tuesday, August 6, 2019 9:04 AM
To: Aber, Bruce <Aber.Bruce@epa.gov>
Subject: RE: Nassau County Judicial Consent Decree Centralized Monitoring System Talking Points for DOJ

Bruce,

I have some questions. I will call you later this morning….or let me know when you're available to chat. Thanks.

Yolaanda Walker

****
Yolaanda Walker, Environmental Engineer
Pesticides and Tanks Enforcement Branch
Waste and Chemical Enforcement Division
Office of Civil Enforcement
US Environmental Protection Agency (2249A)
Ph: 202-564-4281, Fax: 202-564-0020
Email: walker.yolaanda@epa.gov
****

Help eliminate environmental violations - report tips and complaints at:
http://www.epa.gov/compliance/complaints/index.html

Confidential: This transmission may contain deliberative, attorney-client, attorney work product or otherwise privileged material. Do not release under FOIA without appropriate review. If you have received this message in error, please delete it from your machine and all storage media, whether electronic or hard copy.

From: Aber, Bruce <Aber.Bruce@epa.gov>
Sent: Monday, August 5, 2019 5:04 PM
To: Sullivan, Greg <Sullivan.Greg@epa.gov>
Cc: Shapiro, Naomi <Shapiro.Naomi@epa.gov>; Teter, Royan <Teter.Royan@epa.gov>; Walker, Yolaanda <Walker.Yolaanda@epa.gov>; Saenz, Diana <Saenz.Diana@epa.gov>
Subject: Nassau County Judicial Consent Decree Centralized Monitoring System Talking Points for DOJ
Importance: High

ATTORNEY-CLIENT PRIVILEGE
DELIBERATIVE PROCESS/ENFORCEMENT CONFIDENTIAL
DO NOT RELEASE UNDER FOIA

Hi Greg,
As per your discussion with Naomi, attached are the talking points for you to review. Thanks for your willingness to review –As background, we negotiated an administrative CA/FO in 2012 that called for a Supplemental Environmental Project (SEP) with a municipality, Nassau County, that involved centralized monitoring system (CMS) for all its USTs at approximately 50 facilities. We referred the case to DOJ in 2015 because of the County's non-performance with several injunctive relief requirements under the administrative

Ex. 5 Deliberative Process (DP) & Attorney Client Privilege & Attorney Work Product

Bruce

Bruce Aber
Assistant Regional Counsel
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 2
290 Broadway, 16th Floor
New York, NY 10007-1866
(212) 637-3224 (phone)
Aber.bruce@epa.gov

Message

From: Aber, Bruce [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=94B0177E55F4407989C009E179DBBE45-ABER, BRUCE]
Sent: 8/5/2019 9:19:20 PM
To: Shapiro, Naomi [Shapiro.Naomi@epa.gov]
Subject: FW: Nassau County Judicial Consent Decree Centralized Monitoring System Talking Points for DOJ
Attachments: Nassau County CMS ORC Talking Points August 5 2019 (002).docx

Importance: High

FYI, I reviewed electronic files of the Contactor (LIRO)'s inspection reports for Nassau County in 2014 and 2015—I could not find any violations failing to report/investigate suspected releases. So I did not include it in the talking points.

From: Aber, Bruce
Sent: Monday, August 5, 2019 5:04 PM
To: Sullivan, Greg <Sullivan.Greg@epa.gov>
Cc: Shapiro, Naomi <Shapiro.Naomi@epa.gov>; Teter, Royan <Teter.Royan@epa.gov>; Walker, Yolaanda <Walker.Yolaanda@epa.gov>; Saenz, Diana <Saenz.Diana@epa.gov>
Subject: Nassau County Judicial Consent Decree Centralized Monitoring System Talking Points for DOJ
Importance: High

ATTORNEY-CLIENT PRIVILEGE
DELIBERATIVE PROCESS/ENFORCEMENT CONFIDENTIAL
DO NOT RELEASE UNDER FOIA

Hi Greg,
As per your discussion with Naomi, attached are the talking points for you to review. Thanks for your willingness to review –As background, we negotiated an administrative CA/FO in 2012 that called for a Supplemental Environmental Project (SEP) with a municipality, Nassau County, that involved centralized monitoring system (CMS) for all its USTs at approximately 50 facilities. We referred the case to DOJ in 2015 because of the County's non-performance with several injunctive relief requirements under the administrative

Ex. 5 Deliberative Process (DP) & Attorney Client Privilege & Attorney Work Product

Bruce

Bruce Aber
Assistant Regional Counsel
Office of Regional Counsel

U.S. Environmental Protection Agency, Region 2
290 Broadway, 16th Floor
New York, NY 10007-1866
(212) 637-3224 (phone)
Aber.bruce@epa.gov

Message

From: Aber, Bruce [Aber.Bruce@epa.gov]
Sent: 8/2/2019 6:54:19 PM
To: Ex. 6 Personal Privacy (PP)
Subject:
Attachments:

Ex. 5 AC/DP

From: Aber, Bruce <Aber.Bruce@epa.gov>
Sent: Friday, August 2, 2019 10:42 AM
To: Shapiro, Naomi <Shapiro.Naomi@epa.gov>
Subject: Fw: Ex. 5 AC/DP

As i thought, july 11 is the last version. see email below and the attachment above.
Bruce

From: Aber, Bruce
Sent: Thursday, July 11, 2019 1:21 PM
To: Gallagher, Mark (ENRD) <Mark.Gallagher@usdoj.gov>
Cc: Silverman, Matthew (USANYE) <Matthew.Silverman@usdoj.gov>; Beckmann, Diane (USANYE) <Diane.Beckmann@usdoj.gov>; Shapiro, Naomi <Shapiro.Naomi@epa.gov>; Sawyer, William <Sawyer.William@epa.gov>
Subject: Ex. 5 AC/DP

ENFORCEMENT CONFIDENTIAL

Mark,

Ex. 5 Deliberative Process (DP) & Attorney Client Privilege & Attorney Work Product

Ex. 5 Deliberative Process (DP) & Attorney Client Privilege & Attorney Work Product

Ex. 5 Deliberative Process (DP) & Attorney Client Privilege & Attorney Work Product

Bruce

Sincerely,

Bruce Aber
Assistant Regional Counsel
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 2
290 Broadway, 16th Floor
New York, NY 10007-1866
(212) 637-3224 (phone)
Aber.bruce@epa.gov

Message

From: Aber, Bruce [Aber.Bruce@epa.gov]
Sent: 8/2/2019 2:42:39 PM
To: Shapiro, Naomi [Shapiro.Naomi@epa.gov]
Subject:
Attachments:

Ex. 5 AC/DP

As i thought, july 11 is the last version. see email below and the attachment above.
Bruce

From: Aber, Bruce
Sent: Thursday, July 11, 2019 1:21 PM
To: Gallagher, Mark (ENRD) <Mark.Gallagher@usdoj.gov>
Cc: Silverman, Matthew (USANYE) <Matthew.Silverman@usdoj.gov>; Beckmann, Diane (USANYE) <Diane.Beckmann@usdoj.gov>; Shapiro, Naomi <Shapiro.Naomi@epa.gov>; Sawyer, William <Sawyer.William@epa.gov>
Subject: Ex. 5 AC/DP

ENFORCEMENT CONFIDENTIAL

Mark,

Ex. 5 Deliberative Process (DP) & Attorney Client Privilege & Attorney Work Product

Ex. 5 Deliberative Process (DP) & Attorney Client Privilege & Attorney Work Product

Bruce

Sincerely,

Bruce Aber
Assistant Regional Counsel
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 2
290 Broadway, 16th Floor
New York, NY 10007-1866
(212) 637-3224 (phone)
Aber.bruce@epa.gov

Message

From: Aber, Bruce [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=94B0177E55F4407989C009E179DBBE45-ABER, BRUCE]
Sent: 8/1/2019 11:54:26 PM
To: EX 6 Personal Privacy
Subject: FW: Nassau County CMS Draft ORC Revised Talking Points
Attachments: Nassau County CMS Draft ORC REDLINED Talking Points August 1 2019 (004).docx

From: Aber, Bruce
Sent: Thursday, August 1, 2019 6:58 PM
To: Shapiro, Naomi <Shapiro.Naomi@epa.gov>
Subject: RE: Nassau County CMS Draft ORC Revised Talking Points

Ex. 5 Deliberative Process (DP) & Attorney Client Privilege & Attorney Work Product

Bruce

From: Shapiro, Naomi
Sent: Wednesday, July 31, 2019 12:14 PM
To: Schaaf, Eric <Schaaf.Eric@epa.gov>; Simon, Paul <Simon.Paul@epa.gov>

Cc: Sawyer, William <Sawyer.William@epa.gov>; Aber, Bruce <Aber.Bruce@epa.gov>
Subject: Nassau County CMS Draft ORC Talking Points

Latest attempt attached

Message

From: Aber, Bruce [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=94B0177E55F4407989C009E179DBBE45-ABER, BRUCE]
Sent: 7/31/2019 6:53:33 PM
To: Gutierrez, Claudia [Gutierrez.Claudia@epa.gov]; Voo, Leonard [Voo.Leonard@epa.gov]
Subject: FW: Nassau County CMS Draft ORC Talking Points
Attachments: Nassau County CMS Draft ORC CLEAN Talking Points July 31 2019.docx

Ex. 5 Deliberative Process (DP) & Attorney Client Privilege & Attorney Work Product

Bruce

From: Shapiro, Naomi
Sent: Wednesday, July 31, 2019 12:14 PM
To: Schaaf, Eric <Schaaf.Eric@epa.gov>; Simon, Paul <Simon.Paul@epa.gov>
Cc: Sawyer, William <Sawyer.William@epa.gov>; Aber, Bruce <Aber.Bruce@epa.gov>
Subject: Nassau County CMS Draft ORC Talking Points

Ex. 5 Deliberative Process (DP) & Attorney Client Privilege & Attorney Work Product

Message

From: Aber, Bruce [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=94B0177E55F4407989C009E179DBBE45-ABER, BRUCE]
Sent: 7/31/2019 3:58:53 PM
To: Shapiro, Naomi [Shapiro.Naomi@epa.gov]
Subject: RE: Nassau County CMS Draft ORC Talking Points July 31 2019.docx
Attachments: Nassau County CMS Draft ORC Redlined Talking Points July 31 2019.docx; Nassau County CMS Draft ORC CLEAN Talking Points July 31 2019.docx

Naomi,

Ex. 5 Deliberative Process (DP) & Attorney Client Privilege & Attorney Work Product

Bruce

From: Shapiro, Naomi
Sent: Wednesday, July 31, 2019 11:00 AM
To: Aber, Bruce <Aber.Bruce@epa.gov>
Subject: Nassau County CMS Draft ORC Talking Points July 31 2019.docx

Message

From: Aber, Bruce [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=94B0177E55F4407989C009E179DBBE45-ABER, BRUCE]
Sent: 7/31/2019 2:01:40 PM
To: Shapiro, Naomi [Shapiro.Naomi@epa.gov]
Subject: Revised Nassau County Talking Points
Attachments: Nassau County CMS Revised ORC Talking Points July 31 2019.docx

Importance: High

See attached. I think its really good now! Thanks again for your assistance.

Bruce

Bruce Aber
Assistant Regional Counsel
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 2
290 Broadway, 16th Floor
New York, NY 10007-1866
(212) 637-3224 (phone)
Aber.bruce@epa.gov

Message

From: Aber, Bruce [Aber.Bruce@epa.gov]
Sent: 7/30/2019 8:27:59 PM
To: Shapiro, Naomi [Shapiro.Naomi@epa.gov]
Subject: Nassau County CMS Revised ORC Talking Points
Attachments: Nassau County CMS Revised ORC Talking Points redNPS July 30 2019 (1).docx; Nassau County CMS Revised ORC Talking Points CLEAN NPS BA July 30 2019 (1).docx

Ex. 5 Deliberative Process (DP) & Attorney Work Product

From: Shapiro, Naomi <Shapiro.Naomi@epa.gov>
Sent: Tuesday, July 30, 2019 3:21 PM
To: Aber, Bruce <Aber.Bruce@epa.gov>
Subject: Nassau County CMS Revised ORC Talking Points

See the attached. Read through and then give me a call.

Message

From: Aber, Bruce [Aber.Bruce@epa.gov]
Sent: 7/30/2019 7:48:25 PM
To: Ex. 6 Personal Privacy (PP)
Subject: Fw: Nassau County CMS Revised ORC Talking Points
Attachments: Nassau County CMS Revised ORC Talking Points redNPS July 30 2019.docx

---

From: Shapiro, Naomi <Shapiro.Naomi@epa.gov>
Sent: Tuesday, July 30, 2019 3:21 PM
To: Aber, Bruce <Aber.Bruce@epa.gov>
Subject: Nassau County CMS Revised ORC Talking Points

See the attached. Read through and then give me a call.

Message

From: Aber, Bruce [Aber.Bruce@epa.gov]
Sent: 7/30/2019 3:01:31 PM
To: Shapiro, Naomi [Shapiro.Naomi@epa.gov]
Subject: Nassau County Revised talking points
Attachments: Nassau County CMS Revised ORC Talking Points CLEAN revised July 30 2019.docx

Hi Naomi,

Ex. 5 Deliberative Process (DP) & Attorney Work Product

Thanks
Bruce

Message

From: Aber, Bruce [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=94B0177E55F4407989C009E179DBBE45-ABER, BRUCE]
Sent: 7/29/2019 9:43:40 PM
To: EX 6 Personal Privacy
Subject: nassau talking points
Attachments: Nassau County CMS ORC Talking Points CLEAN revised. July 29 2019.docx

Bruce Aber
Assistant Regional Counsel
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 2
290 Broadway, 16th Floor
New York, NY 10007-1866
(212) 637-3224 (phone)
Aber.bruce@epa.gov

Message

From: Aber, Bruce [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=94B0177E55F4407989C009E179DBBE45-ABER, BRUCE]
Sent: 7/29/2019 5:07:19 PM
To: Shapiro, Naomi [Shapiro.Naomi@epa.gov]
Subject: FW: REVISED--USE THIS-- Nassau ORC Talking Points for Centralized Monitoring System
Attachments: Nassau County CMS ORC Talking Points CLEAN revised 6 p.m. July 16 2019 (004).docx

From: Aber, Bruce
Sent: Tuesday, July 16, 2019 6:01 PM
To: Schaaf, Eric <Schaaf.Eric@epa.gov>
Cc: Sawyer, William <Sawyer.William@epa.gov>
Subject: Nassau ORC Talking Points for Centralized Monitoring System

Please see attached. Let us know if you want to discuss further.
Thanks
Bruce

Message

From: Aber, Bruce [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=94B0177E55F4407989C009E179DBBE45-ABER, BRUCE]
Sent: 7/29/2019 5:06:56 PM
To: Shapiro, Naomi [Shapiro.Naomi@epa.gov]
Subject: FW: Time Changed to 1:30 for Nassau County Talking Points for Centralized Monitoring System
Attachments: Nassau County CMS ORC Talking Points July 15 2019 (004).docx

From: Aber, Bruce
Sent: Monday, July 15, 2019 3:53 PM
To: Schaaf, Eric <Schaaf.Eric@epa.gov>
Cc: Simon, Paul <Simon.Paul@epa.gov>; Sawyer, William <Sawyer.William@epa.gov>; Shapiro, Naomi <Shapiro.Naomi@epa.gov>
Subject: Nassau County Talking Points for Centralized Monitoring System

Eric,

Ex. 5 Deliberative Process (DP) & Attorney Client Privilege & Attorney Work Product

Bruce

Bruce Aber
Assistant Regional Counsel
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 2
290 Broadway, 16th Floor
New York, NY 10007-1866
(212) 637-3224 (phone)
Aber.bruce@epa.gov

Message

From: Aber, Bruce [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=94B0177E55F4407989C009E179DBBE45-ABER, BRUCE]
Sent: 7/17/2019 7:53:52 PM
To: Gutierrez, Claudia [Gutierrez.Claudia@epa.gov]
CC: Voo, Leonard [Voo.Leonard@epa.gov]
Subject: FW: Nassau ORC Talking Points for Centralized Monitoring System
Attachments: Nassau County CMS ORC Talking Points CLEAN revised 6 p.m. July 16 2019 (004).docx

ENFORCEMENT CONFIDENTIAL
Claudia,

Ex. 5 Deliberative Process (DP) & Attorney Client Privilege & Attorney Work Product

Bruce

From: Aber, Bruce
Sent: Tuesday, July 16, 2019 6:01 PM
To: Schaaf, Eric <Schaaf.Eric@epa.gov>
Cc: Sawyer, William <Sawyer.William@epa.gov>
Subject: Nassau ORC Talking Points for Centralized Monitoring System

Please see attached. Let us know if you want to discuss further.
Thanks
Bruce

Message

From: Aber, Bruce [Aber.Bruce@epa.gov]
Sent: 7/16/2019 7:09:13 PM
To: Sawyer, William [Sawyer.William@epa.gov]
Subject: Nassau County CMS Revised Talking Points
Attachments: Nassau County CMS ORC Talking Points Redlined 3 pm July 16 2019 (004).docx; Nassau County CMS ORC Talking Points CLEAN revised 3 p.m. July 16 2019 (004).docx

See revised versions attached (redlined and clean)

Message

From: Aber, Bruce [Aber.Bruce@epa.gov]
Sent: 7/16/2019 4:22:59 PM
To: Sawyer, William [Sawyer.William@epa.gov]
Subject: Nassau revised talking points--clean and redlined versions
Attachments: Nassau County CMS ORC Talking Points CLEAN July 16 2019 (004).docx; Nassau County CMS ORC Talking Points Redlined July 16 2019 (004).docx

Message

From: Aber, Bruce [Aber.Bruce@epa.gov]
Sent: 7/16/2019 1:41:15 PM
To: Sawyer, William [Sawyer.William@epa.gov]
Subject: Re: Ex. 5 AC/DP

Ex. 5 Deliberative Process (DP) & Attorney Client Privilege & Attorney Work Product

---

From: Sawyer, William
Sent: Tuesday, July 16, 2019 9:27 AM
To: Aber, Bruce
Subject: RE: Ex. 5 AC/DP

Ex. 5 Deliberative Process (DP) & Attorney Client Privilege & Attorney Work Product

---

From: Aber, Bruce
Sent: Tuesday, July 16, 2019 9:24 AM
To: Sawyer, William <Sawyer.William@epa.gov>
Subject: Re: Ex. 5 AC/DP

Ex. 5 Deliberative Process (DP) & Attorney Client Privilege & Attorney Work Product

---

From: Sawyer, William
Sent: Tuesday, July 16, 2019 8:55 AM
To: Schaaf, Eric; Simon, Paul
Cc: Aber, Bruce
Subject Ex. 5 AC/DP

Ex. 5 Deliberative Process (DP) & Attorney Client Privilege & Attorney Work Product

---

From: Sawyer, William
Sent: Tuesday, July 16, 2019 8:52 AM
To: Gallagher, Mark (ENRD) <Mark.Gallagher@usdoj.gov>
Cc: Aber, Bruce <Aber.Bruce@epa.gov>
Subject: Ex. 5 AC/DP

Ex. 5 Deliberative Process (DP) & Attorney Client Privilege & Attorney Work Product

Ex. 5 Deliberative Process (DP) & Attorney Client Privilege & Attorney Work Product

Message

From: Aber, Bruce [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=94B0177E55F4407989C009E179DBBE45-ABER, BRUCE]
Sent: 7/15/2019 10:12:38 PM
To: Sawyer, William [Sawyer.William@epa.gov]
CC: Shapiro, Naomi [Shapiro.Naomi@epa.gov]
Subject: FW: RCRA docket review for Nassau County

Importance: High

I added an additional bullet in my update below.

From: Aber, Bruce
Sent: Thursday, July 11, 2019 8:45 PM
To: Sawyer, William <Sawyer.William@epa.gov>
Cc: Shapiro, Naomi <Shapiro.Naomi@epa.gov>
Subject: FW: RCRA docket review for Nassau County
Importance: High

See Nassau County below. (Under separate email I sent you the update for Chestnut)

From: Shapiro, Naomi
Sent: Wednesday, July 10, 2019 3:25 PM
To: Aber, Bruce <Aber.Bruce@epa.gov>
Subject: RCRA docket review
Importance: High

The next DOJ Docket meeting is scheduled to occur on 7/23/19. The pre-docket meeting is next Wednesday morning. Please update your case statuses and return to me and Wilkie ASAP

Ex. 5 AC/DP

Ex. 5 AC/AWP/DP

Ex. 5 AC/AWP/DP

Ex. 5 AC/AWP/DP

Ex. 5 AC/AWP/DP

Ex. 5 AC/AWP/DP

Ex. 5 AC/AWP/DP

•

Message

From: Aber, Bruce [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=94B0177E55F4407989C009E179DBBE45-ABER, BRUCE]
Sent: 7/15/2019 6:41:36 PM
To: Shapiro, Naomi [Shapiro.Naomi@epa.gov]
CC: Sawyer, William [Sawyer.William@epa.gov]
Subject: RE: Nassau ORC Final Draft Talking Points July 15 2019 redNPS.docx
Attachments: Nassau ORC Final Draft Talking Points July 15 2019 redNPS BA reply.docx

Ex. 5 Deliberative Process (DP) & Attorney Work Product

Bruce

From: Shapiro, Naomi
Sent: Monday, July 15, 2019 2:07 PM
To: Aber, Bruce <Aber.Bruce@epa.gov>; Sawyer, William <Sawyer.William@epa.gov>
Subject: Nassau ORC Final Draft Talking Points July 15 2019 redNPS.docx

Message

From: Aber, Bruce [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=94B0177E55F4407989C009E179DBBE45-ABER, BRUCE]
Sent: 7/15/2019 5:45:16 PM
To: Shapiro, Naomi [Shapiro.Naomi@epa.gov]; Sawyer, William [Sawyer.William@epa.gov]
Subject: Nassau Final Draft Talking Points
Attachments: Nassau ORC Final Draft Talking Points July 15 2019 (002).docx

See attached.

Bruce Aber
Assistant Regional Counsel
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 2
290 Broadway, 16th Floor
New York, NY 10007-1866
(212) 637-3224 (phone)
Aber.bruce@epa.gov

Message

From: Aber, Bruce [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=94B0177E55F4407989C009E179DBBE45-ABER, BRUCE]
Sent: 7/15/2019 4:52:50 PM
To: Sawyer, William [Sawyer.William@epa.gov]
CC: Shapiro, Naomi [Shapiro.Naomi@epa.gov]
Subject: Nassau revised again talking points
Attachments: Nassau ORC Revised Again Talking Points July 15 2019 (002).docx

See attached

Bruce Aber
Assistant Regional Counsel
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 2
290 Broadway, 16th Floor
New York, NY 10007-1866
(212) 637-3224 (phone)
Aber.bruce@epa.gov

Message

From: Aber, Bruce [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=94B0177E55F4407989C009E179DBBE45-ABER, BRUCE]
Sent: 7/15/2019 3:38:01 PM
To: Sawyer, William [Sawyer.William@epa.gov]; Shapiro, Naomi [Shapiro.Naomi@epa.gov]
Subject: Nassau Revised Talking Points
Attachments: Nassau ORC Revised Talking Points July 15 2019.docx

See attached.

Bruce Aber
Assistant Regional Counsel
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 2
290 Broadway, 16th Floor
New York, NY 10007-1866
(212) 637-3224 (phone)
Aber.bruce@epa.gov

Message

From: Aber, Bruce [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=94B0177E55F4407989C009E179DBBE45-ABER, BRUCE]
Sent: 7/15/2019 1:27:14 PM
To: Sawyer, William [Sawyer.William@epa.gov]
Subject: Nassau Talking Points
Attachments: Nassau ORC Talking Points July 15 2019.docx

See attached

Bruce Aber
Assistant Regional Counsel
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 2
290 Broadway, 16th Floor
New York, NY 10007-1866
(212) 637-3224 (phone)
Aber.bruce@epa.gov

Message

From: Aber, Bruce [Aber.Bruce@epa.gov]
Sent: 7/12/2019 9:59:21 PM
To: Sawyer, William [Sawyer.William@epa.gov]
Subject: Fw: Latest News on Nassau County

fyi

From: Voo, Leonard
Sent: Friday, July 12, 2019 3:26 PM
To: LaPosta, Dore; Anderson, Kate
Cc: Aber, Bruce; Diaz, Sandra; Shapiro, Naomi; Gutierrez, Claudia
Subject: Latest News on Nassau County

Ex. 5 Deliberative Process (DP) & Attorney Client Privilege & Attorney Work Product

Lenny Voo
RCRA Compliance Branch
Enforcement and Compliance Assurance Division
USEPA Region 2
Floor 21
290 Broadway
New York, NY 10007

212-637-1473 (o)
212-637-4207 (f)

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2
290 BROADWAY
NEW YORK, NY 10007-1866

September 30, 2015

CERTIFIED MAIL/RETURN RECEIPT REQUESTED
Article Number: 7015 0640 0007 6347 4387

Jane M. Houdek, Esq.
Attorney for Public Works
County of Nassau
Department of Public Works
1194 Prospect Avenue
Westbury, New York 11590-2723

Re: Docket No. 02-2011-7506 (Nassau County, NY)/Consent Agreement/Final Order
Failure to Satisfy Requirements Under CA/FO & UST Regulations
Notice of Stipulated Penalties Accrual

Dear Ms. Houdek:

This is to notify you of multiple instances of broad-based non-compliance, as described below, by the Respondent, Nassau County, in violation of the requirements of the September 27, 2012 Consent Agreement/Final Order (CA/FO), and to remind you that stipulated penalties under the CA/FO continue to accrue pursuant to Paragraphs 28 (A)(i) and/or (ii) and Paragraph 29 b for failing to comply with numerous requirements set forth therein. See the Enclosure to this letter for more details. EPA has previously informed you of the County's non-compliance by emails of October 22, 2013, October 24, 2014, December 1, 2014, December 10, 2014, February 2, 2015, February 5, 2015, February 13, 2015, April 1, 2015 and April 20, 2015.

INJUNCTIVE RELIEF

Pursuant to Paragraph 4 of the CA/FO, Nassau County was required to perform, by June 30, 2013, injunctive relief as described in its March 26, 2012 Compliance Plan ("Compliance Plan"), which is incorporated by reference into the CA/FO. Consistent with the Compliance Plan, the County was required to perform the compliance work described in the County's former consultant's (Roux Associates') March 23, 2012 letter and the Tables 1, 2 and 3 attachments to said letter. Consistent with the Compliance Plan, Paragraph 4 (a), (b) & (d) of the CA/FO required Nassau County to:

(a) install automated release detection, by June 30, 2013, for USTs (not including tanks that store fuel solely for use by emergency power generators) at all Respondent owned and/or operated facilities and begin operation of the installed automated release detection by no later

Total Production Set 6.30.21 ED_004082B_00001621-00001

than December 31, 2014 (We believe that five of these facilities are still without any automated release detection—See Enclosure, paragraph 1(a));

(b) install overfill alarms with automatic shutoff devices at the nineteen facilities specified in this subparagraph by no later than June 30, 2013 (We believe that three of these facilities remain without overfill prevention equipment—See Enclosure, paragraph 1(b);

(d) (1) upgrade and/or replace, by June 30, 2013, an active steel UST or provide temporary and permanently closure for said UST at the Nassau County Police Department 1st Precinct (cited in Count 46 of Complaint). (Although this steel UST was removed on 1/27/14 at the Nassau County Police Department 1st Precinct, no permanent closure plan (site assessment report and closure report) was submitted to EPA---See Enclosure, paragraph 2.

(2) provide secondary containment, by December 31, 2013, for Hazardous Waste USTs at two facilities (Rockville Center (cited in count 72 of the Complaint) and Norman Levy Depot (count 74) or provide for the temporary and permanent closure (pursuant to 40 C.F.R. Section 280.70-280.74) of these two USTs—See Enclosure, paragraph 3; and

(3) temporarily and permanently close, by December 31, 2013, a waste oil UST at one facility (Rockville Center) (count 73). (Nassau County has not submitted evidence of secondary containment or temporary and permanent closure (including the performance of a site assessment in accordance with 40 C.F.R. Section 280.72) for the USTs at the Rockville Center and Norman Levy Depot and for the waste oil tank at Rockville Center—See Enclosure, paragraph 3).

In addition, pursuant to paragraph 4 of the CA/FO, in exchange for a reduction in civil penalty during settlement negotiation, Nassau County agreed to install, by December 31, 2013, automated release detection (and operate the automated release detection for a minimum of three years beginning no later than December 31, 2014) for USTs that were "deferred" (i.e., exempt) from federal release detection under 40 C.F.R. Part 280.10(d) and 40 C.F.R. Part 280. These USTs store fuel solely for use to power emergency generators. (We believe that 16 facilities that store fuel solely for use to power emergency generators are still without automated release detection – See Enclosure, paragraph 4.

Based on information which Nassau County provided in its Quarterly Progress Reports, revised UST Management Plan (dated January 30, 2015) and inspection reports submitted by Nassau County's contractor, LiRo, Nassau County has not completed and/or fulfilled all the above-mentioned injunctive work requirements by the deadlines specified in paragraph 4 of the CA/FO. See Enclosure, paragraphs 1, 2, 3 & 4.

Upon completion of the injunctive work described above, Nassau County was required to submit, pursuant to paragraph 5 of the CA/FO, a written certification, on or before March 1, 2014, of completion of all applicable work requirements specified in paragraph 4 of the CA/FO for underground storage tanks and piping at all facilities owned and/or operated by Nassau County. However, to date, some 19 months after this deadline, Nassau County has not provided any written certification of completion of each of the applicable work requirements (specified in

paragraph 4) in compliance with Paragraph 5 of the CA/FO. Stipulated penalties continue to accrue for the continuing failure to submit the required certification of completion for each task in paragraph 4.

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Pursuant to paragraph 18 of the CA/FO, any failure to fully and timely perform the requirements of a Supplemental Environmental Project ("SEP") shall constitute a violation of the CA/FO.

(1) Land Acquisition & Environmental Restoration Project (LAERP)—SEP #1
Pursuant to Paragraphs 9 and 12 of the CA/FO, Nassau County was required to perform SEP #1 involving Land Acquisition and Environmental Restoration. At the request of Nassau County, and pursuant to paragraph 36 of the CA/FO, EPA, by letter of August 21, 2013, granted an extension of the due date for completion of SEP #1 until February 21, 2015. The schedule for completing the LAERP SEP is contained in EPA's August 21, 2013 letter and required this SEP to be completed within 18 months from the date of this letter. After the February 21, 2015 deadline, Nassau County submitted a LAERP proposal, dated April 1, 2015, for installation and operation of Community Gardens on County owned parkland. EPA has separately communicated its comments regarding Nassau County's proposal. Even putting aside other issues with this proposal, the Community Gardens LAERP proposal does not satisfy Nassau County's obligations under the CA/FO. The proposal does not satisfy the cost expenditure requirement under paragraph 12 of the CA/FO. The Community Gardens project would have only involved expenditures of $125,000 for the first year, and $25,000 for each additional year. Nassau County is required to submit a proposal for a minimum expenditure of $725,000.

Indeed, your April 21, 2015 email to EPA counsel, Bruce Aber, states: "The Community Gardens is only one aspect of the LAERP—we are still pursuing land acquisition." It has been 3 years since the CA/FO was final and well after the February 21, 2015 deadline for completing this SEP. Nassau County has failed to meet the revised interim milestone requirements for property identification (due by 2/12/14), property evaluation (due by 8/21/14), public participation (due by 12/21/14) and land acquisition (due by 2/21/15). To date, Nassau County still has not submitted a satisfactory proposal for land acquisition and/or environmental restoration under paragraph 9 of the CA/FO.

Based on the above-mentioned failure of Nassau County to complete and implement SEP #1 under the CA/FO, the stipulated penalty specified in Paragraph 28 A (i) of CA/FO may be assessed. See Enclosure, paragraph 5.

(2) Progress Report
Pursuant to Paragraph 20 of the CA/FO, Nassau County was required to submit a Progress Report (detailing all activities taken to implement each SEP) every 90 days until completion of SEP Completion Reports for SEP #1 and SEP #2. See subparagraphs (a)-(d) of paragraph 20. However, Progress Reports have not been timely completed pursuant to paragraph 20. Although several Progress Reports were submitted late, EPA has only cited in the Enclosure specific mention of the stipulated penalty for the County's failure to submit one Progress Report in a

timely manner. See Enclosure, paragraph 6, for the stipulated penalties that have accrued for this late submittal.

In addition, EPA notes that the quarterly Progress Reports submitted by the County have been deficient, because they have not included required information on SEP cost. Paragraph 20 (c) of the CA/FO states that Nassau County is to include in its Progress Reports "details of expenditures made during that period in connection with each SEP." Paragraph 21 of the CA/FO requires the submission of "copies of all invoices and a copy of documents related to each SEP and created or paid or received by Respondent during the reporting period." However, Nassau County has not provided any cost documentation in its Progress Reports. This has prevented EPA from checking that the County is making the required payments for creditable expenditures for the centralized monitoring system SEP. Stipulated penalties are also accruing for this violation.

POSSIBLE ADDITIONAL VIOLATIONS

(1) Centralized Monitoring System (CMS) SEP #2

With regard to SEP # 2 (Centralized Monitoring System (CMS)), pursuant to Paragraphs 9 and 16 of the CA/FO, Nassau County was required to complete installation, by December 31, 2014, of CMS and then to operate and maintain the CMS for a period of at least three years. The CMS was to cover all active facilities with federally-regulated USTs, including USTs that store fuel solely for use by emergency power generators, owned and/or operated by Nassau County. Pursuant to Paragraph 9, Nassau County is required to spend no less than $950,000 (Required SEP Expenditure) in implementing this SEP.[1]

Based on EPA's review of the UST Management Plan (Appendix B), dated January 30, 2015, quarterly Progress Reports and Inspection Reports prepared by LiRo, Nassau County does not appear to have installed equipment for a CMS by the December 31, 2014 deadline for all of its federally regulated UST systems. We believe that UST systems at the following five facilities are not linked to a CMS: Hempstead Garage, Manhasset Garage, Hicksville Garage, Nassau County Police Department Marine Bureau and the Nassau County Correction facility. Additionally, we believe that there are 16 facilities[2] containing USTs with emergency generators that still are not connected with a CMS.

---

[1] Under the CA/FO, the total estimated cost of this SEP is $971,400. See paragraphs 16 b. and c. of the CA/FO, which indicates the cost as follows: $172,800 for installing CMS—see column 5 of Schedule 1 of Exhibit B of Respondent's March 23, 2012 letter plus $495,000 for 3 years of labor costs; plus $303,600 for the cost of Veeder-Root/CMS interfacing, see column 6 of Schedule 1 in Exhibit B of Respondent's March 23, 2012 letter.

[2] We believe that there are 19 active facilities containing USTs with an emergency generator, and that sixteen of the 19 facilities still do not have automated release detection and a CMS.

On February 5, 2015, you sent an email advising Mr. Aber that you would be submitting a compliance report for the CMS SEP. Subsequently, on February 6, 2015, you sent a cost spread sheet to Mr. Aber, along with an e-mail that said the spread sheet constitutes "Nassau County's compliance with the requirements of SEP #2." The spread sheet identified approximately $2.5 million in total costs that Nassau County had expended for the CMS SEP. However, the costs included in the spreadsheet were for "automated (Veeder-Root) release detection" and "tank upgrades" for each facility. These costs are not creditable expenses for the CMS SEP, because they are for release detection, not centralized monitoring, costs. Significantly, no detailed description of activities or expenditures relating to release detection or the CMS were included in the spreadsheet. See paragraph 6 of Mr. Aber's February 13, 2015 email to Ms. Houdek, wherein he describes in more detail EPA's concern that much of the $2.5 million costs are not creditable expenditures for this SEP.

(2) Recently Identified Additional RCRA-UST Violations by Nassau County's Contractor

Additionally, EPA has reviewed fifty-two (52) inspection reports submitted by LiRo on March 31, 2015, May 14, 2015, and May 29, 2015. The reports document inspections conducted between June 2014 and May 2015 for facilities containing USTs that are owned and operated by Nassau County and which are all (except for the Nassau County 4H Camp, which is located in Suffolk County) located within Nassau County. The inspection reports identified and documented multiple violations of federal UST regulations. Almost every facility's USTs had deficiencies of release detection monitoring and record keeping, and some facility's USTs had other violations. The reports have raised substantial concerns regarding Nassau County's ability to comply with legal requirements in its management and operation of its UST systems.

In summary, the ongoing violations of both the federal UST regulations, and the CA/FO requirements are of substantial concern to EPA and stipulated penalties continue to accrue for such non-compliance.

If there are any questions of a technical nature regarding this matter, please contact Ton Moy at (212) 637-4079 or moy.ton@epa.gov. If there are any questions of a legal nature, please contact Bruce Aber at (212) 637-3224 or aber.bruce@epa.gov.

Sincerely yours,

Leonard Voo, Chief
RCRA Compliance Branch
Division of Enforcement and Compliance Assistance

Enclosure

ENCLOSURE

(1) Release Detection & Overfill
Applicable Paragraph for Obligation Under CA/FO: Paragraphs 4 (a), (b) and 5 of the CA/FO.
Stipulated Penalty Specified in Paragraph 29 b. of CA/FO

(a) Failure to Install and Operate Fully Automated Veeder-Root (Release Detection System) at the following 5 facilities: Hempstead Garage, Manhasset Garage, Hicksville Garage, NCPD Marine Bureau, and Nassau County Correctional Facility;

Due Date – December 31, 2014
Days Overdue – 244 days (as of 9/1/15)

(b) Failure to Install Overfill Alarms with Automatic Shutoff Devices at the following 3 facilities: Bay Park Water Pollution Control Plan, Nassau County Executive Building and Nassau County Marine Bureau.

Due Date – June 30, 2013
Days Overdue – 792 days (as of 9/1/15)

(2) Upgrade and/or Replace UST
Applicable Paragraph for Obligation Under CA/FO: Paragraph 4(d) and 5 of the CA/FO.
Stipulated Penalty Specified in Paragraph 29b. of CAFO
Due Date: June 30, 2013
Days Overdue: 792 days (as of 9/1/15)

In the absence of upgrading or replacing the active steel UST at the Nassau County Police Department 1st Precinct (Count 46 of the Complaint), Nassau County was required to provide for temporary closure, followed by permanent closure for this tank. Although this steel UST was removed on 1/27/14, no permanent closure plan (site assessment report and closure report) was submitted to EPA.

(3) Hazardous Waste Tanks & Waste Oil Tank Closures at Rockville & Norman Levy
Applicable Paragraph for Obligation Under CA/FO: Beginning part of Paragraph 4, part of paragraph 4(d) and paragraph 5 of the CA/FO.
Stipulated Penalty specified in Paragraph 29 b. of CA/FO
Due Date- December 31, 2013
Days Overdue – 609 days (as of 9/1/15)

In the absence of installation of secondary containment for Hazardous Waste USTs at Rockville Center (Count 72) and Norman Levy Depot (Count 74), Nassau County was required to provide for temporary closure, followed by permanent closure for the tanks. The requirements for temporary closure and permanent closure are set forth in 40 C.F.R. Section 280.70-74 and include, among other things, the performance of a site assessment. While the tanks were closed in place on January 30, 2015 (see Appendix B of UST Management Plan dated January 30, 2015), no permanent closure reports (no site assessment report(s) and closure plan(s)) were

submitted to EPA for these two facilities. Additionally, no permanent closure report was submitted to EPA for the waste oil tank at the Rockville Center facility (Count 73).

(4) Install Release Detection for USTs Which Are Exempt From Release Dectection Under Current Federal Regulation (i.e., USTs that store fuel solely for use by emergency power generators)

Applicable Paragraph for Obligation Under CA/FO: Beginning part of Paragraph 4
Stipulated Penalty Specified in Paragraph 29 b. of CA/FO
Due Date: 12/31/13
Days Overdue – 609 days (as of 9/1/15)

These USTs are at the following facilities: Pump Stations at Long Meadow, Royal Avenue, Skillman Street, Woodland Drive, Fox Road, Glengariff Drive, Knight Street, Long Beach, East Hills, Cold Spring, Grand Avenue, Regent Drive, NCPD 5th Precinct, Nassau County Public Safety, Nassau County Executive Building and Nassau County Family Court.

(5) Supplemental Environmental Project ("SEP") 1: Land Acquisition and Environmental Restoration Project (LAERP)

Applicable Paragraphs for Obligation Under CA/FO: Paragraphs 9 and 12
Stipulated Penalty Specified in Paragraph 28 A (i) of CA/FO
Due Date – 2/21/15 (see August 21, 2013 LAERP Plan schedule extension letter)
Days Overdue – 192 days (as of 9/1/15)

Nassau County has failed to complete this SEP by the February 21, 2015 deadline, which was extended from the original deadline in the CAFO.

(6) Progress Report

Applicable Paragraph for Obligation Under CA/FO: Paragraph 20
Stipulated Penalty specified in Paragraph 29 b. of CA/FO.
Due Date – 8/1/14 for 4th Report
4th report submitted on 3/31/15
Days Overdue – 242 days (from 8/1/14 to 3/31/15)

Nassau County has failed to submit several Progress Reports in a timely manner. Although several Progress Reports were submitted late, the above writeup only cites the County's failure to submit one Progress Report in a timely manner.

(7) Progress Report

Applicable Paragraph for Obligation Under CA/FO: Paragraphs 20 and 21
Stipulated Penalty specified in Parargraph 29 b. of CA/FO
Nassau County has failed to include in its Progress Reports details of expenditures made during the previous quarter and copies of required invoices and documents in connection with the SEPs.

Message

From: Aber, Bruce [Aber.Bruce@epa.gov]
Sent: 6/28/2019 2:45:13 PM
To: Simon, Paul [Simon.Paul@epa.gov]
CC: Sawyer, William [Sawyer.William@epa.gov]
Subject: Re: Ex. 5 Attorney Client (AC)

Ex. 5 Deliberative Process (DP) & Attorney Client Privilege & Attorney Work Product

From: Simon, Paul
Sent: Friday, June 28, 2019 7:28 AM
To: Aber, Bruce; Schaaf, Eric
Cc: Sawyer, William
Subject: Re: Ex. 5 Attorney Client (AC)

Ex. 5 Deliberative Process (DP) & Attorney Client Privilege & Attorney Work Product

Ex. 5 Deliberative Process (DP) & Attorney Client Privilege & Attorney Work Product

Ex. 5 Deliberative Process (DP) & Attorney Client Privilege & Attorney Work Product

Ex. 5 Deliberative Process (DP) & Attorney Client Privilege & Attorney Work Product

Bruce

Bruce Aber
Assistant Regional Counsel
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 2

290 Broadway, 16th Floor
New York, NY 10007-1866
(212) 637-3224 (phone)
Aber.bruce@epa.gov

Message

From: Aber, Bruce [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=94B0177E55F4407989C009E179DBBE45-ABER, BRUCE]
Sent: 7/12/2019 12:44:49 AM
To: Sawyer, William [Sawyer.William@epa.gov]
CC: Shapiro, Naomi [Shapiro.Naomi@epa.gov]
Subject: FW: RCRA docket review for Nassau County

Importance: High

See Nassau County below. (Under separate email I sent you the update for Chestnut)

From: Shapiro, Naomi
Sent: Wednesday, July 10, 2019 3:25 PM
To: Aber, Bruce <Aber.Bruce@epa.gov>
Subject: RCRA docket review
Importance: High

The next DOJ Docket meeting is scheduled to occur on 7/23/19. The pre-docket meeting is next Wednesday morning. Please update your case statuses and return to me and Wilkie ASAP

Ex. 5 AC/DP

Ex. 5 AC/AWP/DP

Ex. 5 AC/AWP/DP

•

Ex. 5 AC/AWP/DP

Ex. 5 AC/AWP/DP

Message

From: Aber, Bruce [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=94B0177E55F4407989C009E179DBBE45-ABER, BRUCE]
Sent: 6/27/2019 11:18:32 PM
To: Shapiro, Naomi [Shapiro.Naomi@epa.gov]
Subject: FW: Ex. 5 Attorney Client (AC)

Hi Naomi,

Ex. 5 Deliberative Process (DP)

From: Aber, Bruce
Sent: Thursday, June 27, 2019 7:16 PM
To: Simon, Paul <Simon.Paul@epa.gov>
Cc: Schaaf, Eric <Schaaf.Eric@epa.gov>; Sawyer, William <Sawyer.William@epa.gov>
Subject: Ex. 5 Attorney Client (AC)

Paul,

Ex. 5 Deliberative Process (DP) & Attorney Client Privilege & Attorney Work Product

Ex. 5 Deliberative Process (DP) & Attorney Client Privilege & Attorney Work Product

Ex. 5 Deliberative Process (DP) & Attorney Client Privilege & Attorney Work Product

Bruce

Bruce Aber
Assistant Regional Counsel
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 2
290 Broadway, 16th Floor
New York, NY 10007-1866
(212) 637-3224 (phone)
Aber.bruce@epa.gov

Message

From: Aber, Bruce [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=94B0177E55F4407989C009E179DBBE45-ABER, BRUCE]
Sent: 7/11/2019 5:27:27 PM
To: Gutierrez, Claudia [Gutierrez.Claudia@epa.gov]
CC: Voo, Leonard [Voo.Leonard@epa.gov]
Subject:
Attachments:

Ex. 5 AC/DP

FYI

From: Aber, Bruce
Sent: Thursday, July 11, 2019 1:21 PM
To: Gallagher, Mark (ENRD) <Mark.Gallagher@usdoj.gov>
Cc: Silverman, Matthew (USANYE) <Matthew.Silverman@usdoj.gov>; Beckmann, Diane (USANYE) <Diane.Beckmann@usdoj.gov>; Shapiro, Naomi <Shapiro.Naomi@epa.gov>; Sawyer, William <Sawyer.William@epa.gov>
Subject: Ex. 5 AC/DP
Importance: High

ENFORCEMENT CONFIDENTIAL

Mark,

Ex. 5 Deliberative Process (DP) & Attorney Client Privilege & Attorney Work Product

Ex. 5 Deliberative Process (DP) & Attorney Client Privilege & Attorney Work Product

Bruce

Sincerely,

Bruce Aber
Assistant Regional Counsel
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 2
290 Broadway, 16th Floor
New York, NY 10007-1866
(212) 637-3224 (phone)
Aber.bruce@epa.gov

Message

From: Aber, Bruce [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=94B0177E55F4407989C009E179DBBE45-ABER, BRUCE]
Sent: 6/27/2019 10:35:41 PM
To: Sawyer, William [Sawyer.William@epa.gov]
Subject: Ex. 5 AC/DP

Ex. 5 AC/AWP/DP

Ex. 5 AC/AWP/DP

Bruce Aber
Assistant Regional Counsel
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 2
290 Broadway, 16th Floor
New York, NY 10007-1866
(212) 637-3224 (phone)
Aber.bruce@epa.gov

Message

From: Aber, Bruce [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=94B0177E55F4407989C009E179DBBE45-ABER, BRUCE]
Sent: 7/11/2019 5:21:16 PM
To: Gallagher, Mark (ENRD) [Mark.Gallagher@usdoj.gov]
CC: Silverman, Matthew (USANYE) [Matthew.Silverman@usdoj.gov]; Beckmann, Diane (USANYE) [Diane.Beckmann@usdoj.gov]; Shapiro, Naomi [Shapiro.Naomi@epa.gov]; Sawyer, William [Sawyer.William@epa.gov]
Subject:
Attachments:

Ex. 5 AC/DP

Importance: High

ENFORCEMENT CONFIDENTIAL

Mark,

Ex. 5 AC/AWP/DP

Bruce

Sincerely,

Bruce Aber
Assistant Regional Counsel
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 2
290 Broadway, 16th Floor
New York, NY 10007-1866
(212) 637-3224 (phone)
Aber.bruce@epa.gov

Message

From: Aber, Bruce [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=94B0177E55F4407989C009E179DBBE45-ABER, BRUCE]
Sent: 6/27/2019 9:41:59 PM
To: Sawyer, William [Sawyer.William@epa.gov]
Subject: Draft Note to Paul

Ex. 5 AC/AWP/DP

Ex. 5 AC/AWP/DP

Bruce

Bruce Aber
Assistant Regional Counsel
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 2
290 Broadway, 16th Floor
New York, NY 10007-1866
(212) 637-3224 (phone)
Aber.bruce@epa.gov

Message

From: Aber, Bruce [Aber.Bruce@epa.gov]
Sent: 7/9/2019 3:43:01 PM
To: Gutierrez, Claudia [Gutierrez.Claudia@epa.gov]
Subject: Fw: Nassau County Settlement Note and Documents
Attachments: Ex. 5 AC/DP

From: Aber, Bruce
Sent: Tuesday, July 9, 2019 11:41 AM
To: Gallagher, Mark (ENRD)
Cc: Silverman, Matthew (USANYE); Beckmann, Diane (USANYE); Sawyer, William; Shapiro, Naomi
Subject: Nassau County Settlement Note and Documents

ENFORCEMENT CONFIDENTIAL

Mark,

Ex. 5 Deliberative Process (DP) & Attorney Client Privilege & Attorney Work Product

We are free after 2 p.m. today to discuss.

Thanks.
Bruce

Message

From: Aber, Bruce [Aber.Bruce@epa.gov]
Sent: 7/9/2019 3:41:59 PM
To: Gallagher, Mark (ENRD) [Mark.Gallagher@usdoj.gov]
CC: Silverman, Matthew (USANYE) [Matthew.Silverman@usdoj.gov]; Beckmann, Diane (USANYE) [Diane.Beckmann@usdoj.gov]; Sawyer, William [Sawyer.William@epa.gov]; Shapiro, Naomi [Shapiro.Naomi@epa.gov]
Subject: Nassau County Settlement Note and Documents
Attachments: Ex. 5 AC/DP

ENFORCEMENT CONFIDENTIAL

Mark,

Ex. 5 Deliberative Process (DP) & Attorney Client Privilege & Attorney Work Product

Thanks.
Bruce

Message

From: Aber, Bruce [Aber.Bruce@epa.gov]
Sent: 7/9/2019 3:12:03 PM
To: Ex. 6 Personal Privacy (PP)
Subject: Fw: Nassau County

From: Simon, Paul
Sent: Tuesday, July 9, 2019 11:04 AM
To: Shapiro, Naomi
Cc: Sawyer, William; Aber, Bruce; Schaaf, Eric
Subject: RE: Nassau County

Ex. 5 Deliberative Process (DP) & Attorney Client Privilege & Attorney Work Product

---

From: Shapiro, Naomi
Sent: Tuesday, July 9, 2019 9:52 AM
To: Schaaf, Eric <Schaaf.Eric@epa.gov>; Simon, Paul <Simon.Paul@epa.gov>
Cc: Sawyer, William <Sawyer.William@epa.gov>; Aber, Bruce <Aber.Bruce@epa.gov>
Subject: FW: Nassau County
Importance: High

Ex. 5 Deliberative Process (DP) & Attorney Client Privilege & Attorney Work Product

---

From: Aber, Bruce
Sent: Monday, July 08, 2019 11:54 AM
To: Shapiro, Naomi <Shapiro.Naomi@epa.gov>
Subject: Nassau County
Importance: High

Naomi,

Ex. 5 Deliberative Process (DP) & Attorney Client Privilege & Attorney Work Product

Ex. 5 Deliberative Process (DP) & Attorney Client Privilege & Attorney Work Product

Bruce

Bruce Aber
Assistant Regional Counsel
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 2
290 Broadway, 16th Floor
New York, NY 10007-1866
(212) 637-3224 (phone)
Aber.bruce@epa.gov

Message

From: Aber, Bruce [Aber.Bruce@epa.gov]
Sent: 7/9/2019 2:04:55 PM
To: Shapiro, Naomi [Shapiro.Naomi@epa.gov]
Subject: Re: Nassau County

Thanks Naomi!

From: Shapiro, Naomi
Sent: Tuesday, July 9, 2019 9:52 AM
To: Schaaf, Eric; Simon, Paul
Cc: Sawyer, William; Aber, Bruce
Subject: FW: Nassau County

Ex. 5 Deliberative Process (DP) & Attorney Client Privilege & Attorney Work Product

From: Aber, Bruce
Sent: Monday, July 08, 2019 11:54 AM
To: Shapiro, Naomi <Shapiro.Naomi@epa.gov>
Subject: Nassau County
Importance: High

Naomi,

Ex. 5 Deliberative Process (DP) & Attorney Client Privilege & Attorney Work Product

Ex. 5 Deliberative Process (DP) & Attorney Client Privilege & Attorney Work Product

Bruce

Bruce Aber
Assistant Regional Counsel
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 2
290 Broadway, 16th Floor
New York, NY 10007-1866
(212) 637-3224 (phone)
Aber.bruce@epa.gov

Message

From: Aber, Bruce [Aber.Bruce@epa.gov]
Sent: 7/5/2019 3:18:27 PM
CC: Shapiro, Naomi [Shapiro.Naomi@epa.gov]
Subject: Fw: Nassau--Additional Feedback from DOJ on SEP in settlement

fyi, somehow the "gov" got left out of my email below.

From: Aber, Bruce
Sent: Friday, July 5, 2019 11:16 AM
To: Gutierrez, Claudia; Voo, Leonard
Cc: Sawyer, William; shapiro.naomi@epa
Subject: Nassau--Additional Feedback from DOJ on SEP in settlement

ENFORCEMENT CONFIDENTIAL

Ex. 5 Deliberative Process (DP) & Attorney Client Privilege & Attorney Work Product

Bruce

Bruce

Message

From: Floto, Erin [Floto.Erin@epa.gov]
Sent: 11/14/2018 6:25:42 PM
To: Buettner, Robert [Buettner.Robert@epa.gov]
Subject: RE: questions about EPA's SEP Policy - in BLUE
Attachments: Pollution Prevention SEPs-Emissions.docx

Ex. 5 AC/DP

From: Buettner, Robert
Sent: Wednesday, November 14, 2018 1:21 PM
To: Floto, Erin <Floto.Erin@epa.gov>
Subject: FW: questions about EPA's SEP Policy - in BLUE

Erin,

The pithiest response as soon as you can would be good. Thanks

Robert Buettner
Chief, Air Compliance Branch

US EPA Region 2 DECA/ACB
290 Broadway, 21st Floor
New York NY 10007

buettner.robert@epa.gov
(212) 637 5031

CONFIDENTIAL: This transmission may contain deliberative and/or enforcement confidential, attorney-client, or otherwise privileged material. Do not release under FOIA without appropriate review. If you have received this message in error, you are asked to notify the sender and to delete this message.

From: Leong, Denise
Sent: Wednesday, November 14, 2018 1:10 PM
To: LaVigna, Gaetano <LaVigna.Gaetano@epa.gov>; Villatora, Liliana <Villatora.Liliana@epa.gov>
Cc: Buettner, Robert <Buettner.Robert@epa.gov>; Kan, Richard <Kan.Richard@epa.gov>; Cardile, Joseph <Cardile.Joseph@epa.gov>
Subject: RE: questions about EPA's SEP Policy - in BLUE

Ex. 5 Attorney Client (AC)

Thanks, Denise

From: LaVigna, Gaetano
Sent: Wednesday, November 14, 2018 12:58 PM
To: Villatora, Liliana <Villatora.Liliana@epa.gov>
Cc: Leong, Denise <Leong.Denise@epa.gov>; Buettner, Robert <Buettner.Robert@epa.gov>; Kan, Richard

<Kan.Richard@epa.gov>; Cardile, Joseph <Cardile.Joseph@epa.gov>
Subject: Re: questions about EPA's SEP Policy - in BLUE

Ex. 5 Attorney Client (AC)

Sent from my iPhone

On Nov 14, 2018, at 11:24 AM, Villatora, Liliana <Villatora.Liliana@epa.gov> wrote:

Ex. 5 Attorney Client (AC)

From: Leong, Denise
Sent: Wednesday, November 14, 2018 11:21 AM
To: Buettner, Robert <Buettner.Robert@epa.gov>; LaVigna, Gaetano <LaVigna.Gaetano@epa.gov>; Kan, Richard <Kan.Richard@epa.gov>; Cardile, Joseph <Cardile.Joseph@epa.gov>
Cc: Villatora, Liliana <Villatora.Liliana@epa.gov>
Subject: FWD: questions about EPA's SEP Policy - in BLUE

Ex. 5 Attorney Client (AC)

-----Original Message-----
From: Cho, James (USANYE) <James.Cho@usdoj.gov>
Sent: Tuesday, November 13, 2018 11:47 AM
To: Leong, Denise <Leong.Denise@epa.gov>
Cc: LaVigna, Gaetano <LaVigna.Gaetano@epa.gov>; Villatora, Liliana <Villatora.Liliana@epa.gov>
Subject: Fwd: questions about EPA's SEP Policy

See updated email below.

James R. Cho
Assistant U.S. Attorney
U.S. Attorney's Office
Eastern District of New York
271-A Cadman Plaza East, 7th floor<x-apple-data-detectors://9/0>
Brooklyn, New York 11201<x-apple-data-detectors://9/0>
718-254-6519<tel:718-254-6519> (direct)

718-254-7483<tel:718-254-7483> (fax)
james.cho@usdoj.gov<mailto:james.cho@usdoj.gov>

Begin forwarded message:

From: Eli Eilbott <EDE@dwgp.com<mailto:EDE@dwgp.com>>
Date: November 13, 2018 at 11:33:30 AM EST
To: "James.Cho@usdoj.gov<mailto:James.Cho@usdoj.gov>"
<James.Cho@usdoj.gov<mailto:James.Cho@usdoj.gov>>
Subject: RE: questions about EPA's SEP Policy

PRIVILEGED AND CONFIDENTIAL
FOR SETTLEMENT PURPOSES ONLY
NOT ADMISSIBLE PURSUANT TO F.R.E. 408

Actually, re-reading the SEP Policy language quoted in my question no 1 below, I believe my figure of 7A s not correct, since I added 10% of the economic benefit component when it should be 10% of the gravity component. I believe that translates into approximately 7A for the economic benefit component, plus 10% of the $159K gravity component). So, a SEP would seem to make even less sense, assuming the foregoing is correct.

Ex. 5 AWP DPP ACP

From: Eli Eilbott
Sent: Tuesday, November 13, 2018 11:21 AM
To: James.Cho@usdoj.gov<mailto:James.Cho@usdoj.gov>
Subject: questions about EPA's SEP Policy
Importance: High

PRIVILEGED AND CONFIDENTIAL
FOR SETTLEMENT PURPOSES ONLY
NOT ADMISSIBLE PURSUANT TO F.R.E. 408

Mr. Cho,

Thanks again for this past Friday's meeting with the Village of Rockville Centre. Since that time we've been reviewing EPA's SEP policy, which I believe was most recently updated in March 2015, according to this info: https://www.epa.gov/sites/production/files/2015-04/documents/sepupdatedpolicy15.pdf

The Village had a few questions for your team regarding how a potential SEP implemented by the Village as part of a settlement of the Feb. 2012 NOV might work. Because Mr. Andreas will be meeting with the Village Trustees this Thursday to discuss this matter and because EPA and the Village are scheduled to meet again on Nov. 27, I would greatly appreciate it if you/EPA could clarify the following by COB tomorrow if at all possible:

1. As I read Section IX.B.1 of the Policy, at page 21, where a settlement includes a SEP, the amount of the penalty must be equal to the greater of (a) the economic benefit of noncompliance plus ten percent

of the gravity component, or (b) twenty-five percent of the gravity component. 7A

7A

Ex. 5 AC/AWP/DP

2. At the top of p.24 of the Policy, in Section IX.C, it states that "The amount of penalty mitigation given for a SEP should be equivalent to a percentage of the estimated cost to implement the SEP and should not exceed eighty percent (80%) of that estimated cost." Further down on that same page, however, it provides that "For defendants that are . . . government agencies or entities . . . the penalty mitigation amount may be set as high as one hundred percent (100%) of the estimated SEP cost, if the defendant can demonstrate the project is of outstanding quality." Footnote 33 on that page, in turn, states "Outstanding quality may be based on how well a SEP meets and exceeds one or more of the evaluation criteria described in Section VIII, as well as on relevant case-specific factors." To help the Village better understand the possibility that a potential SEP it might implement would earn a 100% penalty mitigation, could EPA provide any more concrete information on what it might consider a SEP of "outstanding quality"? I realize the Policy states this is a case-by-case determination, but any additional info EPA could provide on this point would be helpful.

Ex. 5 Attorney Client (AC) DPP AWP

3. In Section X at page 25 of the Policy, it states that certain project-related costs must be excluded from the portion of the SEP eligible for penalty mitigation. The Policy states that "Examples of costs to consider that are generally not appropriate for inclusion include: overhead; additional employee time and salary; administrative expenses; most legal fees; and contractor oversight." I'm struggling to understand those examples, since they seem quite broad. If Village employees implement a SEP within the Village boundaries, would the Village's cost for that employee labor be considered "additional" time and salary and thus completely excluded from the mitigation eligibility? Would the only mitigation-eligible costs of such a project be parts/materials/equipment? And can EPA shed light on how broad or narrow the definition of "administration expenses" is in that portion of the Policy?

Ex. 5 Attorney Client (AC) DPP AWP

4. Section XII.A.2 at page 36 of the Policy seems to provide EPA with discretion in a particular settlement to exempt the proposed SEP from one or more requirements of the Policy. There it states as follows: "In all cases including a SEP which may not fully comply with the provisions of this Policy (e.g., the proposed settlement penalty is less than the minimum required penalty) . . . the settlement and the SEP must be approved by the Assistant Administrator for OECA." If I'm reading that catch-all exception correctly, EPA would have the discretion, for example, to accept a penalty payment by the Village at a level lower than what would seem otherwise required by the section of the Policy that I quote in my question 1 above. At what point in the SEP review process would EPA make such a decision?

Ex. 5 Attorney Client (AC) DPP AWP

Lastly, a question not directed to the SEP Policy. Specifically, to what extent, if any, would EPA allow the Village to pay the penalty portion of a settlement in installments (e.g., payment of one-quarter the total penalty each year for four consecutive years) as opposed to requiring the Village to make a one-time upfront payment of the entire penalty?

Ex. 5 Attorney Client (AC) DPP AWP

Thank you in advance for your assistance with this. Again, given the meeting with the Trustees this Thursday, we'd greatly appreciate receiving EPA's responses to the foregoing by COB tomorrow if possible.

Eli

Eli D. Eilbott

[Description: Description: cid:YMHZYIOFYWWM.IMAGE_28.png]

1615 M Street NW | Suite 800 | Washington, DC 20036
(202) 467-6370 | ede@dwgp.com<mailto:ede@dwgp.com> www.dwgp.com<http://www.dwgp.com/>

This communication is from a law firm and may contain confidential and/or privileged information. If it has been sent to you in error, please contact the sender for instructions concerning return or destruction, and do not use or disclose the contents to others.

Message

From: LaVigna, Gaetano [LaVigna.Gaetano@epa.gov]
Sent: 7/16/2018 2:45:11 PM
To: Buettner, Robert [Buettner.Robert@epa.gov]
Subject:
Attachments: Ex. 5 Attorney Work Product (AWP)

As requested

Gaetano La Vigna, Chief
Stationary Source Compliance Section
Air Compliance Branch
U.S. EPA Region 2
290 Broadway, 21st Floor
New York, New York 10007-1866
Phone (212) 637-4069
Email LaVigna.Gaetano@epa.gov

CONFIDENTIAL: This transmission may contain deliberative and/or enforcement confidential, attorney-client, or otherwise privileged material. Do not release under FOIA without appropriate review. If you have received this message in error, you are asked to notify the sender and to delete this message.

From: Urdaz, Damaris
Sent: Monday, July 02, 2018 9:28 AM
To: LaVigna, Gaetano <LaVigna.Gaetano@epa.gov>; Villatora, Liliana <Villatora.Liliana@epa.gov>
Subject: Ex. 5 Attorney Work Product (AWP)

Guy/Lilianna:

Ex. 5 AC/AWP

Appointment

From: Urdaz, Damaris [Urdaz.Damaris@epa.gov]
Sent: 8/8/2019 5:21:47 PM
To: Buettner, Robert [Buettner.Robert@epa.gov]

Subject: Accepted: Ex. 5 Attorney Work Product (AWP)
Location: Robert's office

Start: 8/12/2019 3:30:00 PM
End: 8/12/2019 4:00:00 PM
Show Time As: Busy

Message

From: Rutherford, Nancy [Rutherford.Nancy@epa.gov]
Sent: 8/24/2017 7:55:52 PM
To: Buettner, Robert [Buettner.Robert@epa.gov]; LaVigna, Gaetano [LaVigna.Gaetano@epa.gov]
Subject: Ex. 5 AC/DP
Attachments:

Ex. 5 AC/DP

Ex. 5 AC/DP

Ex. 5 AC/DP

Thanks,

~~ Nancy Rutherford ~~

~~~~~~

U.S. EPA Region 2 ~ 290 Broadway, NY, NY 10007 ~ 212.637.4003

~~~~~~

CONFIDENTIAL: This transmission may contain deliberative and/or enforcement confidential, attorney-client, or otherwise privileged material. Do not release under FOIA without appropriate review. If you have received this message in error, you are asked to notify the sender and to delete this message.

Appointment

From: Microsoft Outlook [MicrosoftExchange329e71ec88ae4615bbc36ab6ce41109e@usepa.onmicrosoft.com]
Sent: 8/8/2019 12:10:18 PM
To: Buettner, Robert [Buettner.Robert@epa.gov]

Subject: Ex. 5 Attorney Client (AC)
Location: Robert's office

Start: 8/12/2019 3:30:00 PM
End: 8/12/2019 4:00:00 PM

Recurrence: (none)

Your meeting was forwarded

Urdaz, Damaris has forwarded your meeting request to additional recipients.

Meeting

Ex. 5 Attorney Client (AC)

Meeting Time

Monday, August 12, 2019 11:30 AM-12:00 PM.

Recipients

McHale, Mary

All times listed are in the following time zone: (UTC-05:00) Eastern Time (US & Canada)

Sent by Microsoft Exchange Server

Message

From: Urdaz, Damaris [Urdaz.Damaris@epa.gov]
Sent: 7/31/2019 5:33:06 PM
To: Buettner, Robert [Buettner.Robert@epa.gov]
Subject: Ex. 5 AC/AWP
Attachments:

Ex. 5 AC/AWP

Thank you.

From: Cardile, Joseph <Cardile.Joseph@epa.gov>
Sent: Friday, July 26, 2019 4:08 PM
To: Urdaz, Damaris <Urdaz.Damaris@epa.gov>
Cc: Buettner, Robert <Buettner.Robert@epa.gov>; Villatora, Liliana <Villatora.Liliana@epa.gov>; LaVigna, Gaetano <LaVigna.Gaetano@epa.gov>; Ritz, Phillip <Ritz.Phillip@epa.gov>
Subject: Ex. 5 AC/AWP

Hi Damaris,

Ex. 5 AC/AWP

Thx
Joe

Joseph Cardile, Environmental Engineer
Stationary Source Compliance Section
Air Compliance Branch
U.S. EPA, Region 2
290 Broadway, 21st Floor
New York, New York 10007-1866
Phone (212) 637-4054
Email: Cardile.Joseph@epa.gov

CONFIDENTIAL: This transmission may contain deliberative and/or enforcement confidential, attorney-client, or otherwise privileged material. Do not release under FOIA without appropriate review. If you have received this message in error, you are asked to notify the sender and to delete this message.

Message

From: LaVigna, Gaetano [LaVigna.Gaetano@epa.gov]
Sent: 8/15/2017 4:08:23 PM
To: Buettner, Robert [Buettner.Robert@epa.gov]
Subject: RE: Brookhaven

Ex. 5 AC/AWP/DP

Gaetano La Vigna, Chief
Stationary Source Compliance Section
Air Compliance Branch
U.S. EPA Region 2
290 Broadway, 21st Floor
New York, New York 10007-1866
Phone (212) 637-4069
Email LaVigna.Gaetano@epa.gov

CONFIDENTIAL: This transmission may contain deliberative and/or enforcement confidential, attorney-client, or otherwise privileged material. Do not release under FOIA without appropriate review. If you have received this message in error, you are asked to notify the sender and to delete this message.

From: Buettner, Robert
Sent: Tuesday, August 15, 2017 11:18 AM
To: LaVigna, Gaetano <LaVigna.Gaetano@epa.gov>
Subject: Brookhaven

Can you write a brief status summary for COB today?

Message

From: Fried, Gregory [Fried.Gregory@epa.gov]
Sent: 6/1/2017 12:44:32 PM
To: Buettner, Robert [Buettner.Robert@epa.gov]
Subject: Re: Brookhaven - SEP

Provi gave me an update. That's good news.

Gregory Fried
Chief, Stationary Source Enforcement Branch
U.S. EPA
Air Enforcement Division
Office of Civil Enforcement
(202)564-7016
fried.gregory@epa.gov

On Jun 1, 2017, at 7:53 AM, Buettner, Robert <Buettner.Robert@epa.gov> wrote:

Ex. 5 AC/DP

Robert

Robert Buettner
Chief, Air Compliance Branch

US EPA Region 2 DECA/ACB
290 Broadway, 21st Floor
New York NY 10007

buettner.robert@epa.gov
(212) 637 5031

CONFIDENTIAL: This transmission may contain deliberative and/or enforcement confidential, attorney-client, or otherwise privileged material. Do not release under FOIA without appropriate review. If you have received this message in error, you are asked to notify the sender and to delete this message.

On May 31, 2017, at 2:09 PM, Fried, Gregory <Fried.Gregory@epa.gov> wrote:

Robert,

Ex. 5 Deliberative Process (DP)

Ex. 5 AC/DP

Hope this is helpful.

Greg

Gregory Fried
Chief, Stationary Source Enforcement Branch
U.S. EPA
Air Enforcement Division
Office of Civil Enforcement
(202)564-7016
fried.gregory@epa.gov

On May 31, 2017, at 8:17 AM, Buettner, Robert <Buettner.Robert@epa.gov> wrote:

Greg,

Ex. 5 Deliberative Process (DP)

Ex. 5 AC/DP

Comments welcome.

Thanks

Robert

Robert Buettner
Chief, Air Compliance Branch

US EPA Region 2 DECA/ACB
290 Broadway, 21st Floor
New York NY 10007

buettner.robert@epa.gov
(212) 637 5031

CONFIDENTIAL: This transmission may contain deliberative and/or enforcement confidential, attorney-client, or otherwise privileged material. Do not release under FOIA without appropriate review. If you have received this message in error, you are asked to notify the sender and to delete this message.

Begin forwarded message:

From: "Buettner, Robert" <Buettner.Robert@epa.gov>
Date: May 25, 2017 at 7:52:07 AM EDT
To: "Simpson, James" <Simpson.James@epa.gov>
Cc: "LaVigna, Gaetano" <LaVigna.Gaetano@epa.gov>, "Ritz, Phillip" <Ritz.Phillip@epa.gov>, "Cardile, Joseph" <Cardile.Joseph@epa.gov>, "Villatora, Liliana" <Villatora.Liliana@epa.gov>
Subject: Re: Brookhaven - SEP

Ex. 5 AC/DP

Robert

Robert Buettner
Chief, Air Compliance Branch

US EPA Region 2 DECA/ACB
290 Broadway, 21st Floor
New York NY 10007

buettner.robert@epa.gov
(212) 637 5031

CONFIDENTIAL: This transmission may contain deliberative and/or enforcement confidential, attorney-client, or otherwise privileged material. Do not release under FOIA without appropriate review. If you have received this message in error, you are asked to notify the sender and to delete this message.

On May 24, 2017, at 4:52 PM, Simpson, James <Simpson.James@epa.gov> wrote:

Ex. 5 AC/DP

James L. Simpson
Assistant Regional Counsel
U.S. EPA, Region 2
290 Broadway, 16th Floor
New York, New York 10007
212-637-3245 (direct)
Simpson.James@epa.gov

CONFIDENTIAL: This transmission may contain deliberative, attorney-client, attorney work product or otherwise privileged material. Do not release under FOIA without appropriate review. If this message was sent to you in error, you are instructed to delete this message from your machine and all

storage media whether electronic or hard copy.

Please consider the environment before printing this email.

Message

From: Urdaz, Damaris [Urdaz.Damaris@epa.gov]
Sent: 7/8/2019 7:24:20 PM
To: Buettner, Robert [Buettner.Robert@epa.gov]; LaVigna, Gaetano [LaVigna.Gaetano@epa.gov]
Subject: RE: Brookhaven - SEP

Ex. 5 AC/AWP/DP

From: Buettner, Robert
Sent: Monday, July 8, 2019 12:39 PM
To: LaVigna, Gaetano <LaVigna.Gaetano@epa.gov>; Urdaz, Damaris <Urdaz.Damaris@epa.gov>
Subject: FW: Brookhaven - SEP

Ex. 5 AC/AWP/DP

Robert Buettner
Chief, Air Compliance Branch

US EPA Region 2 DECA/ACB
290 Broadway, 21st Floor
New York NY 10007

buettner.robert@epa.gov
(212) 637 5031

CONFIDENTIAL: This transmission may contain deliberative and/or enforcement confidential, attorney-client, or otherwise privileged material. Do not release under FOIA without appropriate review. If you have received this message in error, you are asked to notify the sender and to delete this message.

From: Simpson, James
Sent: Wednesday, May 24, 2017 4:53 PM
To: Buettner, Robert <Buettner.Robert@epa.gov>; LaVigna, Gaetano <LaVigna.Gaetano@epa.gov>; Ritz, Phillip <Ritz.Phillip@epa.gov>; Cardile, Joseph <Cardile.Joseph@epa.gov>
Cc: Villatora, Liliana <Villatora.Liliana@epa.gov>
Subject: Brookhaven - SEP

Hi all,

Ex. 5 AC/AWP/DP

Regards,
Jay

James L. Simpson
Assistant Regional Counsel
U.S. EPA, Region 2
290 Broadway, 16th Floor
New York, New York 10007
212-637-3245 (direct)
Simpson.James@epa.gov

CONFIDENTIAL: This transmission may contain deliberative, attorney-client, attorney work product or otherwise privileged material. Do not release under FOIA without appropriate review. If this message was sent to you in error, you are instructed to delete this message from your machine and all storage media whether electronic or hard copy.

Please consider the environment before printing this email.

Message

From: Urdaz, Damaris [Urdaz.Damaris@epa.gov]
Sent: 7/8/2019 3:36:03 PM
To: Buettner, Robert [Buettner.Robert@epa.gov]
Subject: RE: Brookhaven

Greatly appreciated!

From: Buettner, Robert
Sent: Monday, July 8, 2019 11:31 AM
To: Urdaz, Damaris <Urdaz.Damaris@epa.gov>
Cc: LaVigna, Gaetano <LaVigna.Gaetano@epa.gov>
Subject: RE: Brookhaven

I will look

Robert Buettner
Chief, Air Compliance Branch

US EPA Region 2 DECA/ACB
290 Broadway, 21st Floor
New York NY 10007

buettner.robert@epa.gov
(212) 637 5031

CONFIDENTIAL: This transmission may contain deliberative and/or enforcement confidential, attorney-client, or otherwise privileged material. Do not release under FOIA without appropriate review. If you have received this message in error, you are asked to notify the sender and to delete this message.

From: Urdaz, Damaris
Sent: Monday, July 8, 2019 11:31 AM
To: Buettner, Robert <Buettner.Robert@epa.gov>
Subject: Brookhaven

Ex. 5 AC

Message

From: LaVigna, Gaetano [LaVigna.Gaetano@epa.gov]
Sent: 1/24/2017 1:50:30 PM
To: Buettner, Robert [Buettner.Robert@epa.gov]
Subject: FW: DRAFT - Brookhaven CD
Attachments: Brookhaven.CJ.Draft with DCL edits 12-9-16 - JS-gl.docx

Gaetano La Vigna, Chief
Stationary Source Compliance Section
Air Compliance Branch
U.S. EPA Region 2
290 Broadway, 21st Floor
New York, New York 10007-1866
Phone (212) 637-4069
Email LaVigna.Gaetano@epa.gov

CONFIDENTIAL: This transmission may contain deliberative and/or enforcement confidential, attorney-client, or otherwise privileged material. Do not release under FOIA without appropriate review. If you have received this message in error, you are asked to notify the sender and to delete this message.

From: LaVigna, Gaetano
Sent: Wednesday, January 11, 2017 3:10 PM
To: Simpson, James <Simpson.James@epa.gov>; Buettner, Robert <Buettner.Robert@epa.gov>; Ritz, Phillip <Ritz.Phillip@epa.gov>; Cardile, Joseph <Cardile.Joseph@epa.gov>
Cc: Villatora, Liliana <Villatora.Liliana@epa.gov>
Subject: RE: DRAFT - Brookhaven CD

Ex. 5 AC/AWP

Gaetano La Vigna, Chief
Stationary Source Compliance Section
Air Compliance Branch
U.S. EPA Region 2
290 Broadway, 21st Floor
New York, New York 10007-1866
Phone (212) 637-4069
Email LaVigna.Gaetano@epa.gov

CONFIDENTIAL: This transmission may contain deliberative and/or enforcement confidential, attorney-client, or otherwise privileged material. Do not release under FOIA without appropriate review. If you have received this message in error, you are asked to notify the sender and to delete this message.

From: Simpson, James
Sent: Wednesday, December 14, 2016 4:42 PM
To: LaVigna, Gaetano <LaVigna.Gaetano@epa.gov>; Buettner, Robert <Buettner.Robert@epa.gov>; Ritz, Phillip <Ritz.Phillip@epa.gov>; Cardile, Joseph <Cardile.Joseph@epa.gov>
Cc: Villatora, Liliana <Villatora.Liliana@epa.gov>
Subject: DRAFT - Brookhaven CD

Hello all,

Ex. 5 AC/AWP

Regards,
Jay

James L. Simpson
Assistant Regional Counsel
U.S. EPA, Region 2
290 Broadway, 16th Floor
New York, New York 10007
212-637-3245 (direct)
Simpson.James@epa.gov

CONFIDENTIAL: This transmission may contain deliberative, attorney-client, attorney work product or otherwise privileged material. Do not release under FOIA without appropriate review. If this message was sent to you in error, you are instructed to delete this message from your machine and all storage media whether electronic or hard copy.

Please consider the environment before printing this email.

Message

From: Buettner, Robert [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=05821F26717148AD9BC3B42307C716E4-BUETTNER, ROBERT]
Sent: 7/16/2018 2:07:46 PM
To: LaPosta, Dore [LaPosta.Dore@epa.gov]
CC: Anderson, Kate [Anderson.Kate@epa.gov]
Subject: RE: Ex. 5 AC/AWP

Our assigned DOJ attorney is Diane Beckman (USANYE)

Robert Buettner
Chief, Air Compliance Branch

US EPA Region 2 DECA/ACB
290 Broadway, 21st Floor
New York NY 10007

buettner.robert@epa.gov
(212) 637 5031

CONFIDENTIAL: This transmission may contain deliberative and/or enforcement confidential, attorney-client, or otherwise privileged material. Do not release under FOIA without appropriate review. If you have received this message in error, you are asked to notify the sender and to delete this message.

From: LaPosta, Dore
Sent: Monday, July 16, 2018 9:47 AM
To: Buettner, Robert <Buettner.Robert@epa.gov>
Cc: Anderson, Kate <Anderson.Kate@epa.gov>
Subject: Ex. 5 AC/AWP

Ex. 5 AC/DP

Sent from my iPhone

On Jul 16, 2018, at 9:43 AM, Buettner, Robert <Buettner.Robert@epa.gov> wrote:

Ex. 5 AC/DP

Robert Buettner
Chief, Air Compliance Branch
US EPA Region 2 DECA/ACB
290 Broadway, 21st Floor
New York NY 10007
buettner.robert@epa.gov
(212) 637 5031
CONFIDENTIAL: This transmission may contain deliberative and/or enforcement confidential, attorney-client, or otherwise privileged material. Do not release under FOIA without appropriate review. If you have received this message in error, you are asked to notify the sender and to delete this message.

From: LaPosta, Dore
Sent: Monday, July 16, 2018 9:40 AM
To: Buettner, Robert <Buettner.Robert@epa.gov>
Subject: Ex. 5 AC/AWP

Can you send the attachment?

Sent from my iPhone

On Jul 16, 2018, at 9:28 AM, Buettner, Robert <Buettner.Robert@epa.gov> wrote:

FYI

Robert Buettner
Chief, Air Compliance Branch
US EPA Region 2 DECA/ACB
290 Broadway, 21st Floor
New York NY 10007
buettner.robert@epa.gov
(212) 637 5031
CONFIDENTIAL: This transmission may contain deliberative and/or enforcement confidential, attorney-client, or otherwise privileged material. Do not release under FOIA without appropriate review. If you have received this message in error, you are asked to notify the sender and to delete this message.

From: Urdaz, Damaris
Sent: Monday, July 2, 2018 9:28 AM
To: LaVigna, Gaetano <LaVigna.Gaetano@epa.gov>; Villatora, Liliana <Villatora.Liliana@epa.gov>
Subject: Ex. 5 AC/AWP

Guy/Lilianna:

Ex. 5 AC/AWP/DP

Ex. 5 AC/AWP/DP

Message

From: Buettner, Robert [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=05821F26717148AD9BC3B42307C716E4-BUETTNER, ROBERT]
Sent: 1/10/2018 3:13:29 PM
To: Stanton, Robert J (DEC) [robert.stanton@dec.ny.gov]
CC: LaVigna, Gaetano [LaVigna.Gaetano@epa.gov]
Subject: Ex. 5 AC/AWP
Attachments:

Importance: High

Ex. 5 AC/AWP

From: Buettner, Robert
Sent: Tuesday, December 5, 2017 4:34 PM
To: Genece, Merlange (DEC) <merlange.genece@dec.ny.gov>
Cc: McCarthy, Colleen a (DEC) <colleen.mccarthy@dec.ny.gov>; Robert J Stanton <robert.stanton@dec.ny.gov>; LaVigna, Gaetano <LaVigna.Gaetano@epa.gov>; Villatora, Liliana <Villatora.Liliana@epa.gov>
Subject: Ex. 5 AC/AWP

Ex. 5 AC/AWP

Merlange,

Ex. 5 AC/AWP

Let me know.

Thanks

Robert

Robert Buettner
Chief, Air Compliance Branch

US EPA Region 2 DECA/ACB
290 Broadway, 21st Floor
New York NY 10007

buettner.robert@epa.gov
(212) 637 5031

CONFIDENTIAL: This transmission may contain deliberative and/or enforcement confidential, attorney-client, or otherwise privileged material. Do not release under FOIA without appropriate review. If you have received this message in error, you are asked to notify the sender and to delete this message.

From: Beckmann, Diane (USANYE) <Diane.Beckmann@usdoj.gov>
Sent: Tuesday, December 5, 2017 3:43 PM
To: Elgut, Craig (DEC); Ramrakhiani, Deepak (DEC); McCarthy, Colleen a (DEC); Urdaz, Damaris; Buettner, Robert; Villatora, Liliana; LaVigna, Gaetano
Subject: Ex. 5 AC/AWP

Ex. 5 AC/AWP

Ex. 5 AC/AWP

Diane C. Leonardo
Assistant U.S. Attorney
610 Federal Plaza
Central Islip, New York 11722

631-715-7854
Email: Diane.beckmann@usdoj.gov

Appointment

From: Buettner, Robert [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=05821F26717148AD9BC3B42307C716E4-BUETTNER, ROBERT]
Sent: 8/8/2019 11:29:25 AM
To: Urdaz, Damaris [Urdaz.Damaris@epa.gov]; Villatora, Liliana [Villatora.Liliana@epa.gov]; LaVigna, Gaetano [LaVigna.Gaetano@epa.gov]; Cardile, Joseph [Cardile.Joseph@epa.gov]

Subject: Ex. 5 Attorney Client (AC)
Location: Robert's office

Start: 8/12/2019 3:30:00 PM
End: 8/12/2019 4:00:00 PM
Show Time As: Tentative

Importance: High

Ex. 5 AC

Message

From: Buettner, Robert [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=05821F26717148AD9BC3B42307C716E4-BUETTNER, ROBERT]
Sent: 11/27/2017 3:18:48 PM
To: LaVigna, Gaetano [LaVigna.Gaetano@epa.gov]
Subject: Fwd: sep for brookhaven

Ex. 5 AWP

Robert

Robert Buettner
Chief, Air Compliance Branch

US EPA Region 2 DECA/ACB
290 Broadway, 21st Floor
New York NY 10007

buettner.robert@epa.gov
(212) 637 5031

CONFIDENTIAL: This transmission may contain deliberative and/or enforcement confidential, attorney-client, or otherwise privileged material. Do not release under FOIA without appropriate review. If you have received this message in error, you are asked to notify the sender and to delete this message.

Begin forwarded message:

From: "Cardile, Joseph" <Cardile.Joseph@epa.gov>
Date: November 27, 2017 at 10:17:28 AM EST
To: "Urdaz, Damaris" <Urdaz.Damaris@epa.gov>
Cc: "Buettner, Robert" <Buettner.Robert@epa.gov>, "Villatora, Liliana" <Villatora.Liliana@epa.gov>, "LaVigna, Gaetano" <LaVigna.Gaetano@epa.gov>, "Ritz, Phillip" <Ritz.Phillip@epa.gov>
Subject: FW: sep for brookhaven

Ex. 5 AC/AWP/DP

Thx
Joe

From: Ritz, Phillip
Sent: Monday, November 27, 2017 9:30 AM
To: Urdaz, Damaris <Urdaz.Damaris@epa.gov>; Cardile, Joseph <Cardile.Joseph@epa.gov>
Subject: FW: sep for brookhaven

From: Ritz, Phillip
Sent: Wednesday, May 31, 2017 3:18 PM
To: Simpson, James <Simpson.James@epa.gov>
Subject: sep for brookhaven

Ex. 5 AC/AWP/DP

Message

From: Buettner, Robert [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=05821F26717148AD9BC3B42307C716E4-BUETTNER, ROBERT]
Sent: 6/20/2019 6:09:01 PM
To: Cardile, Joseph [Cardile.Joseph@epa.gov]; 'Ritz, Phillip' [ritz.phillip@epa.gov]
CC: LaVigna, Gaetano [LaVigna.Gaetano@epa.gov]
Subject: FW: Brookhaven

Ex. 5 AC/DP

Robert Buettner
Chief, Air Compliance Branch

US EPA Region 2 DECA/ACB
290 Broadway, 21st Floor
New York NY 10007

buettner.robert@epa.gov
(212) 637 5031

CONFIDENTIAL: This transmission may contain deliberative and/or enforcement confidential, attorney-client, or otherwise privileged material. Do not release under FOIA without appropriate review. If you have received this message in error, you are asked to notify the sender and to delete this message.

From: Villatora, Liliana
Sent: Thursday, June 20, 2019 2:07 PM
To: Buettner, Robert <Buettner.Robert@epa.gov>
Subject: FW: Brookhaven

From: Urdaz, Damaris
Sent: Thursday, June 20, 2019 11:25 AM
To: LaVigna, Gaetano <LaVigna.Gaetano@epa.gov>; Cardile, Joseph <Cardile.Joseph@epa.gov>; Ritz, Phillip <Ritz.Phillip@epa.gov>
Cc: Villatora, Liliana <Villatora.Liliana@epa.gov>
Subject: FW: Brookhaven

Ex. 5 AC/DP

From: Urdaz, Damaris
Sent: Wednesday, June 12, 2019 8:06 AM
To: LaVigna, Gaetano <LaVigna.Gaetano@epa.gov>; Ritz, Phillip <Ritz.Phillip@epa.gov>; Cardile, Joseph <Cardile.Joseph@epa.gov>
Subject: FW: Brookhaven

Ex. 5 AC/DP

Ex. 5 AC/DP

From: Beckmann, Diane (USANYE) <Diane.Beckmann@usdoj.gov>
Sent: Thursday, June 6, 2019 10:47 AM
To: Urdaz, Damaris <Urdaz.Damaris@epa.gov>; Villatora, Liliana <Villatora.Liliana@epa.gov>
Subject: Brookhaven

Hi Damaris and Liliana-

Ex. 5 AC/DP

Diane C. Leonardo
Assistant United States Attorney
Deputy Chief, Long Island Civil Division
610 Federal Plaza
Central Islip, New York 11722

631-715-7854
Email: Diane.beckmann@usdoj.gov

Message

From: Buettner, Robert [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=05821F26717148AD9BC3B42307C716E4-BUETTNER, ROBERT]
Sent: 7/8/2019 4:32:54 PM
To: Buettner, Robert [Buettner.Robert@epa.gov]
Subject: FW: SETTLEMENT CONFIDENTIAL - Town of Brookhaven and Wehran Energy Corp. - SEP
Attachments: Simpson Ltr.pdf

Robert Buettner
Chief, Air Compliance Branch

US EPA Region 2 DECA/ACB
290 Broadway, 21st Floor
New York NY 10007

buettner.robert@epa.gov
(212) 637 5031

CONFIDENTIAL: This transmission may contain deliberative and/or enforcement confidential, attorney-client, or otherwise privileged material. Do not release under FOIA without appropriate review. If you have received this message in error, you are asked to notify the sender and to delete this message.

From: Cardile, Joseph
Sent: Thursday, February 1, 2018 6:18 PM
To: Makepeace, Caroline <Makepeace.Caroline@epa.gov>
Cc: Jonesi, Gary <Jonesi.Gary@epa.gov>; Buettner, Robert <Buettner.Robert@epa.gov>; Villatora, Liliana <Villatora.Liliana@epa.gov>; Urdaz, Damaris <Urdaz.Damaris@epa.gov>; Ritz, Phillip <Ritz.Phillip@epa.gov>
Subject: FW: SETTLEMENT CONFIDENTIAL - Town of Brookhaven and Wehran Energy Corp. - SEP

Ex. 5 AC

Thx
Joe

Joseph Cardile, Environmental Engineer
Stationary Source Compliance Section
Air Compliance Branch
U.S. EPA, Region 2
290 Broadway, 21st Floor
New York, New York 10007-1866
Phone (212) 637-4054
Email: Cardile.Joseph@epa.gov

CONFIDENTIAL: This transmission may contain deliberative and/or enforcement confidential, attorney-client, or otherwise privileged material. Do not release under FOIA without appropriate review. If you have received this message in error, you are asked to notify the sender and to delete this message.

From: Ritz, Phillip
Sent: Thursday, February 01, 2018 6:14 PM

To: Cardile, Joseph <Cardile.Joseph@epa.gov>
Subject: FW: SETTLEMENT CONFIDENTIAL - Town of Brookhaven and Wehran Energy Corp. - SEP

From: Simpson, James
Sent: Thursday, April 13, 2017 3:35 PM
To: Ritz, Phillip <Ritz.Phillip@epa.gov>; LaVigna, Gaetano <LaVigna.Gaetano@epa.gov>; Buettner, Robert <Buettner.Robert@epa.gov>
Cc: Villatora, Liliana <Villatora.Liliana@epa.gov>
Subject: FW: SETTLEMENT CONFIDENTIAL - Town of Brookhaven and Wehran Energy Corp. - SEP

Ex. 5 AC

Regards,
Jay

From: Robbins, Virginia [mailto:RobbinV@bsk.com]
Sent: Thursday, April 13, 2017 12:39 PM
To: Simpson, James <Simpson.James@epa.gov>
Cc: Beckmann, Diane (USANYE) <Diane.Beckmann@usdoj.gov>; Kevin Johnston <kjohnston@brookhavenny.gov>; Michael J. Cahill <MJC@GermanoCahill.com>; Tyson, Robert <TysonR@BSK.com>
Subject: SETTLEMENT CONFIDENTIAL - Town of Brookhaven and Wehran Energy Corp. - SEP

Dear Jay,
On behalf of the Town of Brookhaven and Wehran Energy, please find attached for USEPA's review and comment our letter dated today detailing the estimated costs and task schedule for the proposed Supplemental Environmental Project involving the installation of a solar energy conversion system by the Town.
I am available to discuss this letter at your convenience.
Best, Ginny

Virginia C. Robbins, Esq.
Environmental and Energy Practice Group
315.218.8182 Direct
315.218.8000 Alt
315.218.8100 Fax
315.569.4538 Cell
vrobbins@bsk.com
Bio

BOND SCHOENECK & KING ATTORNEYS
Commitment · Service · Value · Our Bond
One Lincoln Center, Syracuse, NY 13202-1355
This email is ONLY for the person(s) named in the message header. Unless otherwise indicated, it contains information that is confidential, privileged or exempt from disclosure under applicable law. If you have received it in error, please notify the sender of the error and delete the message.

BOND SCHOENECK & KING

One Lincoln Center | Syracuse, NY 13202-1355 | bsk.com

VIRGINIA C. ROBBINS
vrobbins@bsk.com
P: 315-218-8182

April 13, 2017

SETTLEMENT CONFIDENTIAL

BY ELECTRONIC AND FIRST CLASS MAIL

James L. Simpson, Esq.
Assistant Regional Counsel
U.S. Environmental Protection Agency
Region 2
290 Broadway, 16th Floor
New York, NY 10007-1866

Re: *Town of Brookhaven and Wehran Energy Corp.*
Supplemental Environmental Project

Dear Jay:

On behalf of the Town of Brookhaven ("Town") and Wehran Energy Corp., this letter and attachments provide details regarding the Supplemental Environmental Project ("SEP") proposed to be included as a component of an overall settlement of the Clean Air Act ("CAA") violations asserted by the U.S. Environmental Protection Agency ("EPA") concerning the Town's landfill facility.

As we have previously discussed, the Town proposes to implement a SEP consisting of the installation of a solar energy conversion system on its planned mechanics garage and repair shop ("Shop"). The system will include solar panels to be installed on the Shop roof, an inverter, and other components needed to power the Town's operations and also to send excess electricity to the grid using net metering. The system is projected to be approximately 120 kW (DC) and to include 350 solar panels. The Town believes this SEP satisfies the nexus requirements relating to the alleged CAA violations because by generating renewable solar energy, the Town will avoid the emission of greenhouse gases that otherwise would be emitted as a result of the generation of electricity using fossil fuels.

There are a number of qualified vendors who are able to provide the necessary system equipment. At the present time, the Town anticipates the renewable energy equipment will consist of the following (estimated costs are in parentheses):

- Modules/Panels ($62,000)
- Inverters ($14,000)

- Racking ($18,000)
- Balance of Equipment ($45,000)
- Freight/Shipping ($15,000)
- Engineering ($20,000)
- Construction Scope ($126,000)

The estimated total price for the purchase and installation of a solar energy conversion system is $300,000. Due to the planned net metering, the applicable utility, PSE&G, will specify interconnection requirements that may result in the imposition of additional costs that cannot be determined at this time. For these reasons, the Town's cost information is necessarily preliminary, and subject to refinement as it moves forward.

In terms of schedule for SEP implementation and completion, the Town will have to comply with public bidding requirements, and after selection of a qualified vendor, there will be discussions with PSE&G to understand its requirements. Once agreement with PSE&G is obtained, equipment can be ordered. Consequently, to provide for the possibility of delays over which the Town would have no control, and also to facilitate the setup and initial testing of the equipment at the Shop, the Town proposes to complete the SEP within approximately thirty-six months (36) months of the execution of a final Consent Decree. This time frame takes into account all contingencies that the Town is currently aware of with the recognition that other contingencies may arise.

Proposed Task Schedule		
	Task	Time Frame
1	Public Bidding for Project	4 months
2	Vendor Selection by Town Board	2 months
3	Engineering Design	3 months
4	Request to PSE&G for Interconnection Approval	1 month
5	Discussions with PSE&G about Interconnection Requirements	2 months
6	Submission to PSE&G of Design for Interconnection	2 months
7	PSE&G Interconnection Approval Obtained and Agreement Executed	10 months
8	Order Solar Project Equipment	1 month
9	Construction of Interconnection Upgrades and Inspection by PSE&G	4 months
10	Solar Panel Installation on Garage Roof	4 months
11	Testing	1 month
12	Interconnection Startup	1 month
	Total	**35 months**

These time estimates may have to be extended with respect to actions dependent upon PSE&G review and approval. We have estimated 15 months to obtain utility concurrence and approval. It is possible this time frame will be double our estimate. The Town will commit to an outer time frame of 36 months for PSE&G approval. If the Town has not received approval from PSE&G within 36 months, the Town will construct the project as a "behind the meter" project and continue to pursue interconnection with PSE&G, but will proceed with ordering equipment and construction without having approval in place for the net metering option.

Upon full implementation of the SEP, the Town will submit a SEP Completion Report to EPA that describes the equipment, its installation and operation.

If there is additional information regarding the SEP that EPA requires, or if you have any questions, please call.

Sincerely,

BOND, SCHOENECK & KING, PLLC

Virginia C. Robbins

cc: Kevin R. Johnston, Esq.
Michael J. Cahill, Esq.

2790670.5 4/12/2017

Message

From: Buettner, Robert [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=05821F26717148AD9BC3B42307C716E4-BUETTNER, ROBERT]
Sent: 7/8/2019 4:22:17 PM
To: Urdaz, Damaris [Urdaz.Damaris@epa.gov]
CC: LaVigna, Gaetano [LaVigna.Gaetano@epa.gov]
Subject: RE: Brookhaven

Ex. 5 AC

Robert Buettner
Chief, Air Compliance Branch

US EPA Region 2 DECA/ACB
290 Broadway, 21st Floor
New York NY 10007

buettner.robert@epa.gov
(212) 637 5031

CONFIDENTIAL: This transmission may contain deliberative and/or enforcement confidential, attorney-client, or otherwise privileged material. Do not release under FOIA without appropriate review. If you have received this message in error, you are asked to notify the sender and to delete this message.

From: Buettner, Robert
Sent: Monday, July 8, 2019 11:31 AM
To: Urdaz, Damaris <Urdaz.Damaris@epa.gov>
Cc: LaVigna, Gaetano <LaVigna.Gaetano@epa.gov>
Subject: RE: Brookhaven

I will look

Robert Buettner
Chief, Air Compliance Branch

US EPA Region 2 DECA/ACB
290 Broadway, 21st Floor
New York NY 10007

buettner.robert@epa.gov
(212) 637 5031

CONFIDENTIAL: This transmission may contain deliberative and/or enforcement confidential, attorney-client, or otherwise privileged material. Do not release under FOIA without appropriate review. If you have received this message in error, you are asked to notify the sender and to delete this message.

From: Urdaz, Damaris
Sent: Monday, July 8, 2019 11:31 AM
To: Buettner, Robert <Buettner.Robert@epa.gov>
Subject: Brookhaven

Ex. 5 AC

Message

From: Buettner, Robert [Buettner.Robert@epa.gov]
Sent: 5/31/2017 8:25:16 PM
To: Simpson, James [Simpson.James@epa.gov]
BCC: Buettner, Robert [Buettner.Robert@epa.gov]
Subject: Fwd: Brookhaven - SEP

FYI

Robert

Robert Buettner
Chief, Air Compliance Branch

US EPA Region 2 DECA/ACB
290 Broadway, 21st Floor
New York NY 10007

buettner.robert@epa.gov
(212) 637 5031

CONFIDENTIAL: This transmission may contain deliberative and/or enforcement confidential, attorney-client, or otherwise privileged material. Do not release under FOIA without appropriate review. If you have received this message in error, you are asked to notify the sender and to delete this message.

Begin forwarded message:

From: "Fried, Gregory" <Fried.Gregory@epa.gov>
Date: May 31, 2017 at 2:09:33 PM EDT
To: "Buettner, Robert" <Buettner.Robert@epa.gov>
Cc: "Klepp, Robert" <Klepp.Robert@epa.gov>, "Froikin, Sara" <Froikin.Sara@epa.gov>, "Spina, Providence" <Spina.Providence@epa.gov>, "Villatora, Liliana" <Villatora.Liliana@epa.gov>, "Hoang, Anhthu" <Hoang.Anhthu@epa.gov>, "LaVigna, Gaetano" <LaVigna.Gaetano@epa.gov>
Subject: Re: Brookhaven - SEP

Robert,

Ex. 5 AC

Ex. 5 AC

Hope this is helpful.

Greg

Gregory Fried
Chief, Stationary Source Enforcement Branch
U.S. EPA
Air Enforcement Division
Office of Civil Enforcement
(202)564-7016
fried.gregory@epa.gov

On May 31, 2017, at 8:17 AM, Buettner, Robert <Buettner.Robert@epa.gov> wrote:

Ex. 5 AC

Comments welcome.

Thanks

Robert

Robert Buettner
Chief, Air Compliance Branch

US EPA Region 2 DECA/ACB
290 Broadway, 21st Floor
New York NY 10007

buettner.robert@epa.gov
(212) 637 5031

CONFIDENTIAL: This transmission may contain deliberative and/or enforcement confidential, attorney-client, or otherwise privileged material. Do not release under FOIA without appropriate review. If you have received this message in error, you are asked to notify the sender and to delete this message.

Begin forwarded message:

From: "Buettner, Robert" <Buettner.Robert@epa.gov>
Date: May 25, 2017 at 7:52:07 AM EDT
To: "Simpson, James" <Simpson.James@epa.gov>
Cc: "LaVigna, Gaetano" <LaVigna.Gaetano@epa.gov>, "Ritz, Phillip" <Ritz.Phillip@epa.gov>, "Cardile, Joseph" <Cardile.Joseph@epa.gov>, "Villatora, Liliana" <Villatora.Liliana@epa.gov>
Subject: Re: Brookhaven - SEP

Ex. 5 AC

Robert

Robert Buettner
Chief, Air Compliance Branch

US EPA Region 2 DECA/ACB
290 Broadway, 21st Floor
New York NY 10007

buettner.robert@epa.gov
(212) 637 5031

CONFIDENTIAL: This transmission may contain deliberative and/or enforcement confidential, attorney-client, or otherwise privileged material. Do not release under FOIA without appropriate review. If you have received this message in error, you are asked to notify the sender and to delete this message.

On May 24, 2017, at 4:52 PM, Simpson, James <Simpson.James@epa.gov> wrote:

Hi all,

Ex. 5 AC

Ex. 5 AC

Regards,
Jay

James L. Simpson
Assistant Regional Counsel
U.S. EPA, Region 2
290 Broadway, 16th Floor
New York, New York 10007
212-637-3245 (direct)
Simpson.James@epa.gov

CONFIDENTIAL: This transmission may contain deliberative, attorney-client, attorney work product or otherwise privileged material. Do not release under FOIA without appropriate review. If this message was sent to you in error, you are instructed to delete this message from your machine and all storage media whether electronic or hard copy.

Please consider the environment before printing this email.

Appointment

From: LaVigna, Gaetano [LaVigna.Gaetano@epa.gov]
Sent: 2/5/2018 2:07:56 PM
To: Cardile, Joseph [Cardile.Joseph@epa.gov]

Subject: Accepted: Brookhaven SEP
Location: Conf Rm 2134A

Start: 2/6/2018 9:00:00 PM
End: 2/6/2018 9:30:00 PM
Show Time As: Busy

Appointment

From: Fried, Gregory [Fried.Gregory@epa.gov]
Sent: 8/9/2018 11:37:32 AM
To: Fried, Gregory [Fried.Gregory@epa.gov]; LaVigna, Gaetano [LaVigna.Gaetano@epa.gov]; Froikin, Sara [Froikin.Sara@epa.gov]; Spina, Providence [Spina.Providence@epa.gov]
CC: Buettner, Robert [Buettner.Robert@epa.gov]; Villatora, Liliana [Villatora.Liliana@epa.gov]; Klepp, Robert [Klepp.Robert@epa.gov]; Patel, Harish [Patel.Harish@epa.gov]; Leong, Denise [Leong.Denise@epa.gov]; Simpson, James [Simpson.James@epa.gov]; Cardile, Joseph [Cardile.Joseph@epa.gov]

Subject: FW: Region 2 Check-in
Attachments: Untitled Attachment

Start: 9/12/2013 1:00:00 PM
End: 9/12/2013 2:00:00 PM
Show Time As: Tentative

Importance: High

Recurrence: Monthly
Occurs every month on the second Thursday of the month from 9:00 AM to 10:00 AM effective 9/12/2013.

Harish, Guy Please cover this meeting ACB;

Ex. 7(A)

DOE settlement and SEP issues or concerns
Brookhaven SEP nexus issues
Anything else ORC, Harish or Guy raise

-----Original Appointment-----
From: Fried, Gregory
Sent: Monday, June 16, 2014 4:01 PM
To: Fried, Gregory; LaVigna, Gaetano; Froikin, Sara; Spina, Providence
Cc: Buettner, Robert; Villatora, Liliana; Klepp, Robert; Patel, Harish; Leong, Denise; Simpson, James
Subject: Region 2 Check-in
When: Occurs the second Thursday of every 1 month(s) effective 9/12/2013 from 9:00 AM to 10:00 AM (UTC-05:00) Eastern Time (US & Canada).
Where:

Appointment

From: Cardile, Joseph [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=2587033BBBDE46808831027AB9347048-CARDILE, JOSEPH]
Sent: 2/5/2018 8:43:05 PM
To: Buettner, Robert [Buettner.Robert@epa.gov]; Makepeace, Caroline [Makepeace.Caroline@epa.gov]; Villatora, Liliana [Villatora.Liliana@epa.gov]; Jonesi, Gary [Jonesi.Gary@epa.gov]; LaVigna, Gaetano [LaVigna.Gaetano@epa.gov]; Urdaz, Damaris [Urdaz.Damaris@epa.gov]; Ritz, Phillip [Ritz.Phillip@epa.gov]
CC: Williamson, Caroline [williamson.caroline@epa.gov]

Subject: Brookhaven SEP Discussion
Location: Conf Rm 2134A

Start: 2/6/2018 9:00:00 PM
End: 2/6/2018 9:30:00 PM
Show Time As: Tentative

Appointment

From: Simpson, James [Simpson.James@epa.gov]
Sent: 5/25/2017 2:22:28 PM
To: Simpson, James [Simpson.James@epa.gov]; Buettner, Robert [Buettner.Robert@epa.gov]; LaVigna, Gaetano [LaVigna.Gaetano@epa.gov]; Ritz, Phillip [Ritz.Phillip@epa.gov]; Cardile, Joseph [Cardile.Joseph@epa.gov]; Villatora, Liliana [Villatora.Liliana@epa.gov]

Subject: Brookhaven - Finalize Draft CD and SEP
Location: R2NY-Rm-2134A-15p.DECA/R2-NY

Start: 5/31/2017 7:00:00 PM
End: 5/31/2017 8:00:00 PM
Show Time As: Busy

Appointment

From: Cardile, Joseph [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=2587033BBBDE46808831027AB9347048-CARDILE, JOSEPH]
Sent: 2/1/2018 10:58:46 PM
To: Cardile, Joseph [Cardile.Joseph@epa.gov]; Buettner, Robert [Buettner.Robert@epa.gov]; Makepeace, Caroline [Makepeace.Caroline@epa.gov]; Villatora, Liliana [Villatora.Liliana@epa.gov]; Jonesi, Gary [Jonesi.Gary@epa.gov]; LaVigna, Gaetano [LaVigna.Gaetano@epa.gov]; Urdaz, Damaris [Urdaz.Damaris@epa.gov]; Ritz, Phillip [Ritz.Phillip@epa.gov]
CC: Williamson, Caroline [williamson.caroline@epa.gov]

Subject: Brookhaven SEP Discussion
Location: Conf Rm 2134A

Start: 2/6/2018 9:00:00 PM
End: 2/6/2018 9:30:00 PM
Show Time As: Busy

Appointment

From: Cardile, Joseph [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=2587033BBBDE46808831027AB9347048-CARDILE, JOSEPH]
Sent: 5/25/2017 8:38:13 PM
To: Simpson, James [Simpson.James@epa.gov]

Subject: Accepted: Brookhaven - Finalize Draft CD and SEP
Location: R2NY-Rm-2134A-15p.DECA/R2-NY

Start: 5/31/2017 7:00:00 PM
End: 5/31/2017 8:00:00 PM
Show Time As: Busy

Appointment

From: Simpson, James [Simpson.James@epa.gov]
Sent: 5/31/2017 5:29:27 PM
To: Buettner, Robert [Buettner.Robert@epa.gov]; LaVigna, Gaetano [LaVigna.Gaetano@epa.gov]; Ritz, Phillip [Ritz.Phillip@epa.gov]; Cardile, Joseph [Cardile.Joseph@epa.gov]; Villatora, Liliana [Villatora.Liliana@epa.gov]

Subject: Brookhaven - Finalize Draft CD and SEP
Location: R2NY-Rm-2134A-15p.DECA/R2-NY

Start: 5/31/2017 7:00:00 PM
End: 5/31/2017 8:00:00 PM
Show Time As: Tentative

Appointment

From: Cardile, Joseph [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=2587033BBBDE46808831027AB9347048-CARDILE, JOSEPH]
Sent: 2/1/2018 10:58:37 PM
To: Buettner, Robert [Buettner.Robert@epa.gov]; Makepeace, Caroline [Makepeace.Caroline@epa.gov]; Villatora, Liliana [Villatora.Liliana@epa.gov]; Jonesi, Gary [Jonesi.Gary@epa.gov]; LaVigna, Gaetano [LaVigna.Gaetano@epa.gov]; Urdaz, Damaris [Urdaz.Damaris@epa.gov]; Ritz, Phillip [Ritz.Phillip@epa.gov]

Subject: Brookhaven SEP
Location: Conf Rm 2134A

Start: 2/6/2018 9:00:00 PM
End: 2/6/2018 9:30:00 PM
Show Time As: Tentative

Appointment

From: Jonesi, Gary [Jonesi.Gary@epa.gov]
Sent: 2/1/2018 11:09:12 PM
To: Cardile, Joseph [Cardile.Joseph@epa.gov]

Subject: Accepted: Brookhaven SEP
Location: Conf Rm 2134A

Start: 2/6/2018 9:00:00 PM
End: 2/6/2018 9:30:00 PM

Recurrence: (none)

Appointment

From: Makepeace, Caroline [Makepeace.Caroline@epa.gov]
Sent: 2/1/2018 10:59:56 PM
To: Cardile, Joseph [Cardile.Joseph@epa.gov]

Subject: Accepted: Brookhaven SEP
Location: Conf Rm 2134A

Start: 2/6/2018 9:00:00 PM
End: 2/6/2018 9:30:00 PM
Show Time As: Busy

Appointment

From: Urdaz, Damaris [Urdaz.Damaris@epa.gov]
Sent: 2/2/2018 1:20:51 PM
To: Cardile, Joseph [Cardile.Joseph@epa.gov]

Subject: Accepted: Brookhaven SEP
Location: Conf Rm 2134A

Start: 2/6/2018 9:00:00 PM
End: 2/6/2018 9:30:00 PM
Show Time As: Busy

Appointment

From: Microsoft Outlook [MicrosoftExchange329e71ec88ae4615bbc36ab6ce41109e@usepa.onmicrosoft.com]
Sent: 2/2/2018 6:43:57 PM
To: Cardile, Joseph [Cardile.Joseph@epa.gov]

Subject: Meeting Forward Notification: Brookhaven SEP
Location: Conf Rm 2134A

Start: 2/6/2018 9:00:00 PM
End: 2/6/2018 9:30:00 PM

Recurrence: (none)

Appointment

From: Villatora, Liliana [Villatora.Liliana@epa.gov]
Sent: 2/2/2018 1:25:39 PM
To: Cardile, Joseph [Cardile.Joseph@epa.gov]

Subject: Accepted: Brookhaven SEP
Location: Conf Rm 2134A

Start: 2/6/2018 9:00:00 PM
End: 2/6/2018 9:30:00 PM
Show Time As: Busy

Appointment

From: Fried, Gregory [Fried.Gregory@epa.gov]
Sent: 8/9/2018 11:37:32 AM
To: Fried, Gregory [Fried.Gregory@epa.gov]; LaVigna, Gaetano [LaVigna.Gaetano@epa.gov]; Froikin, Sara [Froikin.Sara@epa.gov]; Spina, Providence [Spina.Providence@epa.gov]
CC: Buettner, Robert [Buettner.Robert@epa.gov]; Villatora, Liliana [Villatora.Liliana@epa.gov]; Klepp, Robert [Klepp.Robert@epa.gov]; Patel, Harish [Patel.Harish@epa.gov]; Leong, Denise [Leong.Denise@epa.gov]; Simpson, James [Simpson.James@epa.gov]; Cardile, Joseph [Cardile.Joseph@epa.gov]

Subject: FW: Region 2 Check-in

Start: 9/12/2013 1:00:00 PM
End: 9/12/2013 2:00:00 PM
Show Time As: Tentative

Importance: High

Recurrence: Monthly
Occurs every month on the second Thursday of the month from 9:00 AM to 10:00 AM effective 9/12/2013.

Harish, Guy Please cover this meeting ACB;

Port MBr enforcement issues raised by states
Stonybrook SSI
TCC status
DOE settlement and SEP issues or concerns
Brookhaven SEP nexus issues
Anything else ORC, Harish or Guy raise

-----Original Appointment-----
From: Fried, Gregory
Sent: Monday, June 16, 2014 4:01 PM
To: Fried, Gregory; LaVigna, Gaetano; Froikin, Sara; Spina, Providence
Cc: Buettner, Robert; Villatora, Liliana; Klepp, Robert; Patel, Harish; Leong, Denise; Simpson, James
Subject: Region 2 Check-in
When: Occurs the second Thursday of every 1 month(s) effective 9/12/2013 from 9:00 AM to 10:00 AM (UTC-05:00) Eastern Time (US & Canada).
Where:

Appointment

From: Fried, Gregory [Fried.Gregory@epa.gov]
Sent: 8/9/2018 11:37:32 AM
To: Fried, Gregory [Fried.Gregory@epa.gov]; LaVigna, Gaetano [LaVigna.Gaetano@epa.gov]; Froikin, Sara [Froikin.Sara@epa.gov]; Spina, Providence [Spina.Providence@epa.gov]
CC: Buettner, Robert [Buettner.Robert@epa.gov]; Villatora, Liliana [Villatora.Liliana@epa.gov]; Klepp, Robert [Klepp.Robert@epa.gov]; Patel, Harish [Patel.Harish@epa.gov]; Leong, Denise [Leong.Denise@epa.gov]; Simpson, James [Simpson.James@epa.gov]; Cardile, Joseph [Cardile.Joseph@epa.gov]; Hoang, Anhthu [Hoang.Anhthu@epa.gov]

Subject: FW: Region 2 Check-in
Attachments: Untitled Attachment; Untitled Attachment

Start: 9/12/2013 1:00:00 PM
End: 9/12/2013 2:00:00 PM
Show Time As: Tentative

Importance: High

Recurrence: Monthly
Occurs every month on the second Thursday of the month from 9:00 AM to 10:00 AM effective 9/12/2013.

Harish, Guy Please cover this meeting ACB;

Port MBr enforcement issues raised by states
Stonybrook SSI
TCC status
DOE settlement and SEP issues or concerns
Brookhaven SEP nexus issues
Anything else ORC, Harish or Guy raise

-----Original Appointment-----
From: Fried, Gregory
Sent: Monday, June 16, 2014 4:01 PM
To: Fried, Gregory; LaVigna, Gaetano; Froikin, Sara; Spina, Providence
Cc: Buettner, Robert; Villatora, Liliana; Klepp, Robert; Patel, Harish; Leong, Denise; Simpson, James
Subject: Region 2 Check-in
When: Occurs the second Thursday of every 1 month(s) effective 9/12/2013 from 9:00 AM to 10:00 AM (UTC-05:00) Eastern Time (US & Canada).
Where:

Appointment

From: Fried, Gregory [Fried.Gregory@epa.gov]
Sent: 8/9/2018 11:37:32 AM
To: Fried, Gregory [Fried.Gregory@epa.gov]; LaVigna, Gaetano [LaVigna.Gaetano@epa.gov]; Froikin, Sara [Froikin.Sara@epa.gov]; Spina, Providence [Spina.Providence@epa.gov]
CC: Buettner, Robert [Buettner.Robert@epa.gov]; Villatora, Liliana [Villatora.Liliana@epa.gov]; Klepp, Robert [Klepp.Robert@epa.gov]; Patel, Harish [Patel.Harish@epa.gov]; Leong, Denise [Leong.Denise@epa.gov]; Simpson, James [Simpson.James@epa.gov]; Cardile, Joseph [Cardile.Joseph@epa.gov]; Hoang, Anhthu [Hoang.Anhthu@epa.gov]; Hoyt, Daniel [Hoyt.Daniel@epa.gov]

Subject: FW: Region 2 Check-in
Attachments: Untitled Attachment; Untitled Attachment; Canceled: Region 2 Check-in; Region 2 Check-in

Start: 9/12/2013 1:00:00 PM
End: 9/12/2013 2:00:00 PM
Show Time As: Tentative

Importance: High

Recurrence: Monthly
Occurs every month on the second Thursday of the month from 9:00 AM to 10:00 AM effective 9/12/2013.

Harish, Guy Please cover this meeting ACB;

Port MBr enforcement issues raised by states
Stonybrook SSI
TCC status
DOE settlement and SEP issues or concerns
Brookhaven SEP nexus issues
Anything else ORC, Harish or Guy raise

-----Original Appointment-----
From: Fried, Gregory
Sent: Monday, June 16, 2014 4:01 PM
To: Fried, Gregory; LaVigna, Gaetano; Froikin, Sara; Spina, Providence
Cc: Buettner, Robert; Villatora, Liliana; Klepp, Robert; Patel, Harish; Leong, Denise; Simpson, James
Subject: Region 2 Check-in
When: Occurs the second Thursday of every 1 month(s) effective 9/12/2013 from 9:00 AM to 10:00 AM (UTC-05:00) Eastern Time (US & Canada).
Where:

Appointment

From: Fried, Gregory [Fried.Gregory@epa.gov]
Sent: 8/9/2018 11:37:32 AM
To: Fried, Gregory [Fried.Gregory@epa.gov]; LaVigna, Gaetano [LaVigna.Gaetano@epa.gov]; Froikin, Sara [Froikin.Sara@epa.gov]; Spina, Providence [Spina.Providence@epa.gov]
CC: Buettner, Robert [Buettner.Robert@epa.gov]; Villatora, Liliana [Villatora.Liliana@epa.gov]; Klepp, Robert [Klepp.Robert@epa.gov]; Patel, Harish [Patel.Harish@epa.gov]; Leong, Denise [Leong.Denise@epa.gov]; Simpson, James [Simpson.James@epa.gov]; Cardile, Joseph [Cardile.Joseph@epa.gov]; Hoang, Anhthu [Hoang.Anhthu@epa.gov]; Hoyt, Daniel [Hoyt.Daniel@epa.gov]

Subject: FW: Region 2 Check-in
Attachments: Untitled Attachment; Untitled Attachment; Canceled: Region 2 Check-in

Start: 9/12/2013 1:00:00 PM
End: 9/12/2013 2:00:00 PM
Show Time As: Tentative

Importance: High

Recurrence: Monthly
Occurs every month on the second Thursday of the month from 9:00 AM to 10:00 AM effective 9/12/2013.

Harish, Guy Please cover this meeting ACB;

Port MBr enforcement issues raised by states
Stonybrook SSI
TCC status
DOE settlement and SEP issues or concerns
Brookhaven SEP nexus issues
Anything else ORC, Harish or Guy raise

-----Original Appointment-----
From: Fried, Gregory
Sent: Monday, June 16, 2014 4:01 PM
To: Fried, Gregory; LaVigna, Gaetano; Froikin, Sara; Spina, Providence
Cc: Buettner, Robert; Villatora, Liliana; Klepp, Robert; Patel, Harish; Leong, Denise; Simpson, James
Subject: Region 2 Check-in
When: Occurs the second Thursday of every 1 month(s) effective 9/12/2013 from 9:00 AM to 10:00 AM (UTC-05:00) Eastern Time (US & Canada).
Where:

Appointment

From: Buettner, Robert [Buettner.Robert@epa.gov]
Sent: 8/8/2019 11:29:27 AM
To: Buettner, Robert [Buettner.Robert@epa.gov]; Cardile, Joseph [Cardile.Joseph@epa.gov]; Leong, Denise [Leong.Denise@epa.gov]; Villatora, Liliana [Villatora.Liliana@epa.gov]; McHale, Mary [McHale.Mary@epa.gov]; Urdaz, Damaris [Urdaz.Damaris@epa.gov]; LaVigna, Gaetano [LaVigna.Gaetano@epa.gov]

Subject: Ex. 5 Attorney Client (AC)
Location:

Start: 8/12/2019 3:30:00 PM
End: 8/12/2019 4:00:00 PM
Show Time As: Busy

Importance: High

Ex. 5 Attorney Client (AC)

Appointment

From: Cardile, Joseph [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=2587033BBBDE46808831027AB9347048-CARDILE, JOSEPH]
Sent: 2/1/2018 10:58:46 PM
To: Cardile, Joseph [Cardile.Joseph@epa.gov]; Buettner, Robert [Buettner.Robert@epa.gov]; Makepeace, Caroline [Makepeace.Caroline@epa.gov]; Villatora, Liliana [Villatora.Liliana@epa.gov]; Jonesi, Gary [Jonesi.Gary@epa.gov]; LaVigna, Gaetano [LaVigna.Gaetano@epa.gov]; Urdaz, Damaris [Urdaz.Damaris@epa.gov]; Ritz, Phillip [Ritz.Phillip@epa.gov]
CC: Williamson, Caroline [williamson.caroline@epa.gov]

Subject: Brookhaven SEP Discussion
Location: Conf Rm 2134A

Start: 2/6/2018 9:00:00 PM
End: 2/6/2018 9:30:00 PM
Show Time As: Busy

1. Dial the toll-free Conference Number -
2. Enter your 5-digit Conference Extension -
3. If you are a participant press (2) -

Ex. 6 Personal Privacy (PP)

Appointment

From: Simpson, James [Simpson.James@epa.gov]
Sent: 5/25/2017 2:22:28 PM
To: Simpson, James [Simpson.James@epa.gov]; Buettner, Robert [Buettner.Robert@epa.gov]; LaVigna, Gaetano [LaVigna.Gaetano@epa.gov]; Ritz, Phillip [Ritz.Phillip@epa.gov]; Cardile, Joseph [Cardile.Joseph@epa.gov]; Villatora, Liliana [Villatora.Liliana@epa.gov]

Subject: Brookhaven - Finalize Draft CD and SEP
Location: R2NY-Rm-2134A-15p.DECA/R2-NY

Start: 5/31/2017 7:00:00 PM
End: 5/31/2017 8:00:00 PM
Show Time As: Busy

Hello all,

Ex. 5 Attorney Client (AC)

Regards,
Jay

Message

From: Urdaz, Damaris [Urdaz.Damaris@epa.gov]
Sent: 12/5/2017 9:06:49 PM
To: Cardile, Joseph [Cardile.Joseph@epa.gov]; Ritz, Phillip [Ritz.Phillip@epa.gov]
Subject:
Attachments:

Ex. 5 AC/AWP

FYI

From: Beckmann, Diane (USANYE) [mailto:Diane.Beckmann@usdoj.gov]
Sent: Tuesday, December 05, 2017 3:44 PM
To: Elgut, Craig (DEC) <craig.elgut@dec.ny.gov>; Ramrakhiani, Deepak (DEC) <deepak.ramrakhiani@dec.ny.gov>; McCarthy, Colleen a (DEC) <colleen.mccarthy@dec.ny.gov>; Urdaz, Damaris <Urdaz.Damaris@epa.gov>; Buettner, Robert <Buettner.Robert@epa.gov>; Villatora, Liliana <Villatora.Liliana@epa.gov>; LaVigna, Gaetano <LaVigna.Gaetano@epa.gov>
Subject: Ex. 5 AWP

Ex. 5 AWP

Ex. 5 AWP

Diane

Diane C. Leonardo
Assistant U.S. Attorney
610 Federal Plaza
Central Islip, New York 11722

631-715-7854
Email: Diane.beckmann@usdoj.gov

Message

From: Ritz, Phillip [Ritz.Phillip@epa.gov]
Sent: 7/9/2019 1:32:03 PM
To: Urdaz, Damaris [Urdaz.Damaris@epa.gov]
CC: Cardile, Joseph [Cardile.Joseph@epa.gov]
Subject: RE: ACUA SEP Information

Good morning Damaris,

Ex. 5 AC/DP

P

From: Urdaz, Damaris
Sent: Tuesday, July 09, 2019 7:48 AM
To: Ritz, Phillip <Ritz.Phillip@epa.gov>
Subject: RE: ACUA SEP Information

Phil– Ex. 5 AC/DP

Ex. 5 AC/DP

Ex. 5 AC/DP

From: Ritz, Phillip
Sent: Monday, July 8, 2019 5:57 PM
To: Cardile, Joseph <Cardile.Joseph@epa.gov>; Urdaz, Damaris <Urdaz.Damaris@epa.gov>
Subject: Fw: ACUA SEP Information

Ex. 5 AC/DP

From: Gregory Seher <gseher@acua.com>
Sent: Wednesday, February 10, 2016 12:30 PM
To: Floto, Erin
Cc: Cardile, Joseph; Ritz, Phillip; Malone, Kathleen
Subject: RE: ACUA SEP Information

Hello All,

Ex. 5 DP

Thank you,

Greg Seher
Senior Analyst
Atlantic County Utilities Authority
Research and Development
Phone: 609 272 6935
Fax: 609 569 7387
gseher@acua.com
www.acua.com

From: Floto, Erin [mailto:Floto.Erin@epa.gov]
Sent: Friday, February 05, 2016 10:12 AM
To: Gregory Seher
Cc: Cardile, Joseph; Ritz, Phillip; Malone, Kathleen
Subject: RE: ACUA SEP Information

Ex. 5 DP

Erin Floto

From: Gregory Seher [mailto:gseher@acua.com]
Sent: Friday, February 05, 2016 10:07 AM
To: Floto, Erin <Floto.Erin@epa.gov>

Cc: Cardile, Joseph <Cardile.Joseph@epa.gov>; Ritz, Phillip <Ritz.Phillip@epa.gov>; Malone, Kathleen <Malone.Kathleen@epa.gov>
Subject: RE: ACUA SEP Information

Ex. 5 DP

Thanks again,

Greg Seher
Senior Analyst
Atlantic County Utilities Authority
Research and Development
Phone: 609 272 6935
Fax: 609 569 7387
gseher@acua.com
www.acua.com

From: Floto, Erin [mailto:Floto.Erin@epa.gov]
Sent: Friday, February 05, 2016 9:17 AM
To: Gregory Seher
Cc: Cardile, Joseph; Ritz, Phillip; Malone, Kathleen
Subject: ACUA SEP Information

Hello Greg,

Ex. 5 DP

Erin Floto

Physical Scientist, SEP Coordinator
Division of Enforcement and Compliance Assistance
Environmental Protection Agency
Office: (212) 637-4007
floto.erin@epa.gov

Message

From: Ritz, Phillip [Ritz.Phillip@epa.gov]
Sent: 9/10/2019 1:59:47 PM
To: Villatora, Liliana [Villatora.Liliana@epa.gov]; Cardile, Joseph [Cardile.Joseph@epa.gov]
Subject: RE: brookhaven mitigation info for 10am : brookhaven - sep write up copy in word

Ex. 5 Attorney Client (AC)

CONFIDENTIAL: This transmission may contain deliberative and/or enforcement confidential, attorney-client, or otherwise privileged material. Do not release under FOIA without appropriate review. If you have received this message in error, you are asked to notify the sender and to delete this message.

From: Villatora, Liliana <Villatora.Liliana@epa.gov>
Sent: Tuesday, September 10, 2019 9:50 AM
To: Cardile, Joseph <Cardile.Joseph@epa.gov>; Ritz, Phillip <Ritz.Phillip@epa.gov>
Subject: RE: brookhaven mitigation info for 10am : brookhaven - sep write up copy in word

Yes please – can you call me at Ex. 6 Personal Privacy (PP)

From: Cardile, Joseph
Sent: Tuesday, September 10, 2019 9:50 AM
To: Villatora, Liliana <Villatora.Liliana@epa.gov>; Ritz, Phillip <Ritz.Phillip@epa.gov>
Subject: RE: brookhaven mitigation info for 10am : brookhaven - sep write up copy in word

Phil and I can talk at 10 am. I think Robert and Guy will still be in a staff meeting. Should we call you?

From: Villatora, Liliana <Villatora.Liliana@epa.gov>
Sent: Tuesday, September 10, 2019 9:48 AM
To: Ritz, Phillip <Ritz.Phillip@epa.gov>; Cardile, Joseph <Cardile.Joseph@epa.gov>
Subject: RE: brookhaven mitigation info for 10am : brookhaven - sep write up copy in word

Ex. 5 Attorney Client (AC)

From: Ritz, Phillip
Sent: Tuesday, September 10, 2019 9:33 AM
To: Villatora, Liliana <Villatora.Liliana@epa.gov>; Cardile, Joseph <Cardile.Joseph@epa.gov>
Subject: brookhaven mitigation info for 10am : brookhaven - sep write up copy in word

CONFIDENTIAL: This transmission may contain deliberative and/or enforcement confidential, attorney-client, or otherwise privileged material. Do not release under FOIA without appropriate review. If you have received this message in error, you are asked to notify the sender and to delete this message.

From: Ritz, Phillip
Sent: Wednesday, July 10, 2019 3:10 PM
To: Urdaz, Damaris <Urdaz.Damaris@epa.gov>
Subject: brookhaven - sep write up copy in word

Message

From: Urdaz, Damaris [Urdaz.Damaris@epa.gov]
Sent: 8/28/2017 1:21:18 PM
To: Cardile, Joseph [Cardile.Joseph@epa.gov]
Subject: FW: Brookhaven Documents
Attachments:

Ex. 5 AC/AWP/DP

From: Simpson, James
Sent: Thursday, July 20, 2017 12:19 PM
To: Urdaz, Damaris <Urdaz.Damaris@epa.gov>
Cc: Villatora, Liliana <Villatora.Liliana@epa.gov>
Subject: Brookhaven Documents

Hi Damaris:

Ex. 5 AC/AWP/DP

Regards,
Jay

James L. Simpson
Assistant Regional Counsel
U.S. EPA, Region 2
290 Broadway, 16th Floor
New York, New York 10007
212-637-3245 (direct)
Simpson.James@epa.gov

CONFIDENTIAL: This transmission may contain deliberative, attorney-client, attorney work product or otherwise privileged material. Do not release under FOIA without appropriate review. If this message was sent to you in error, you are instructed to delete this message from your machine and all storage media whether electronic or hard copy.

Message

From: Rutherford, Nancy [Rutherford.Nancy@epa.gov]
Sent: 7/18/2018 7:17:22 PM
To: Ritz, Phillip [Ritz.Phillip@epa.gov]; Cardile, Joseph [Cardile.Joseph@epa.gov]
Subject: RE: Please send updates for your cases asap for enforcement meeting tomorrow morning

Thanks Phil!

From: Ritz, Phillip
Sent: Wednesday, July 18, 2018 1:01 PM
To: Rutherford, Nancy <Rutherford.Nancy@epa.gov>; Cardile, Joseph <Cardile.Joseph@epa.gov>
Cc: Buettner, Robert <Buettner.Robert@epa.gov>
Subject: RE: Please send updates for your cases asap for enforcement meeting tomorrow morning

---

From: Rutherford, Nancy
Sent: Wednesday, July 18, 2018 11:33 AM
To: Ritz, Phillip <Ritz.Phillip@epa.gov>; Cardile, Joseph <Cardile.Joseph@epa.gov>
Cc: Buettner, Robert <Buettner.Robert@epa.gov>
Subject: Please send updates for your cases asap for enforcement meeting tomorrow morning

Ex. 5 AC/DP

Ex. 5 AC/DP

Ex. 5 AC/DP

Ex. 5 AC/DP

Thanks,

~~ Nancy Rutherford ~~

~~~~~~

U.S. EPA Region 2 ~ 290 Broadway, NY, NY 10007 ~ 212.637.4003

~~~~~~

CONFIDENTIAL: This transmission may contain deliberative and/or enforcement confidential, attorney-client, or otherwise privileged material. Do not release under FOIA without appropriate review. If you have received this message in error, you are asked to notify the sender and to delete this message.

Message

From: Ritz, Phillip [Ritz.Phillip@epa.gov]
Sent: 7/10/2019 7:25:51 PM
To: Cardile, Joseph [Cardile.Joseph@epa.gov]; Urdaz, Damaris [Urdaz.Damaris@epa.gov]
Subject: Ex. 5 DP/AWP

Ex. 5 DP/AC/AWP

Microsoft OneDrive

Microsoft respects your privacy. To learn more, please read our Privacy Statement.
Microsoft Corporation, One Microsoft Way, Redmond, WA 98052

Message

From: Urdaz, Damaris [Urdaz.Damaris@epa.gov]
Sent: 7/8/2019 3:46:34 PM
To: Cardile, Joseph [Cardile.Joseph@epa.gov]; Charles Andrews [richard.greene@usdoj.gov]; LaVigna, Gaetano [LaVigna.Gaetano@epa.gov]
Subject: Ex. 5 DP/AC

Ex. 5 DP/AC

From: Ritz, Phillip
Sent: Monday, July 8, 2019 11:37 AM
To: Cardile, Joseph <Cardile.Joseph@epa.gov>; LaVigna, Gaetano <LaVigna.Gaetano@epa.gov>; Urdaz, Damaris <Urdaz.Damaris@epa.gov>
Subject: Ex. 5 DP/AC

From: Cardile, Joseph
Sent: Thursday, February 1, 2018 9:09 AM
To: Urdaz, Damaris
Cc: Villatora, Liliana; Buettner, Robert; LaVigna, Gaetano; Ritz, Phillip
Subject: Ex. 5 DP/AC

Ex. 5 DP/AC

Thx
Joe

From: Urdaz, Damaris
Sent: Thursday, February 01, 2018 8:20 AM
To: Cardile, Joseph <Cardile.Joseph@epa.gov>
Cc: Villatora, Liliana <Villatora.Liliana@epa.gov>
Subject: Ex. 5 DP/AC

Ex. 5 DP/AC

From: Cardile, Joseph
Sent: Thursday, January 11, 2018 9:43 AM
To: Makepeace, Caroline <Makepeace.Caroline@epa.gov>
Cc: Buettner, Robert <Buettner.Robert@epa.gov>; Villatora, Liliana <Villatora.Liliana@epa.gov>; LaVigna, Gaetano <LaVigna.Gaetano@epa.gov>; Urdaz, Damaris <Urdaz.Damaris@epa.gov>; Ritz, Phillip <Ritz.Phillip@epa.gov>; Jonesi,

Gary <Jonesi.Gary@epa.gov>
Subject: Ex. 5 DP/AC

Hi Caroline,

Ex. 5 DP/AC

Thx
Joe

Joseph Cardile, Environmental Engineer
Stationary Source Compliance Section
Air Compliance Branch
U.S. EPA, Region 2
290 Broadway, 21st Floor
New York, New York 10007-1866
Phone (212) 637-4054
Email: Cardile.Joseph@epa.gov

CONFIDENTIAL: This transmission may contain deliberative and/or enforcement confidential, attorney-client, or otherwise privileged material. Do not release under FOIA without appropriate review. If you have received this message in error, you are asked to notify the sender and to delete this message.

From: Makepeace, Caroline
Sent: Wednesday, January 10, 2018 4:00 PM
To: Cardile, Joseph <Cardile.Joseph@epa.gov>
Cc: Buettner, Robert <Buettner.Robert@epa.gov>; Villatora, Liliana <Villatora.Liliana@epa.gov>; LaVigna, Gaetano <LaVigna.Gaetano@epa.gov>; Urdaz, Damaris <Urdaz.Damaris@epa.gov>; Ritz, Phillip <Ritz.Phillip@epa.gov>; Jonesi, Gary <Jonesi.Gary@epa.gov>
Subject: Ex. 5 DP/AC

Hi Joe, et al.,

Ex. 5 DP/AC

Look forward to talking!

Caroline Makepeace
Senior Counsel
Crosscutting Policy Staff
Office of Civil Enforcement
US Environmental Protection Agency
202-564-6012

This may contain enforcement confidential or privileged material. Do not release without appropriate review. If you have received this message in error, please inform the sender, and promptly delete.

From: Cardile, Joseph
Sent: Wednesday, January 10, 2018 3:29 PM
To: Makepeace, Caroline <Makepeace.Caroline@epa.gov>
Cc: Buettner, Robert <Buettner.Robert@epa.gov>; Villatora, Liliana <Villatora.Liliana@epa.gov>; LaVigna, Gaetano <LaVigna.Gaetano@epa.gov>; Urdaz, Damaris <Urdaz.Damaris@epa.gov>; Ritz, Phillip <Ritz.Phillip@epa.gov>
Subject: Ex. 5 DP/AC

Hi Caroline,

Ex. 5 DP/AC

Thx
Joe

Joseph Cardile, Environmental Engineer
Stationary Source Compliance Section
Air Compliance Branch
U.S. EPA, Region 2
290 Broadway, 21st Floor
New York, New York 10007-1866
Phone (212) 637-4054
Email: Cardile.Joseph@epa.gov

CONFIDENTIAL: This transmission may contain deliberative and/or enforcement confidential, attorney-client, or otherwise privileged material. Do not release under FOIA without appropriate review. If you have received this message in error, you are asked to notify the sender and to delete this message.

Message

From: Villatora, Liliana [Villatora.Liliana@epa.gov]
Sent: 7/17/2018 11:47:31 PM
To: Ritz, Phillip [Ritz.Phillip@epa.gov]; Cardile, Joseph [Cardile.Joseph@epa.gov]; LaVigna, Gaetano [LaVigna.Gaetano@epa.gov]
CC: Buettner, Robert [Buettner.Robert@epa.gov]; Urdaz, Damaris [Urdaz.Damaris@epa.gov]
Subject: RE: SETTLEMENT CONFIDENTIAL - Town of Brookhaven and Wehran Energy Corp. - SEP

Thank you

From: Ritz, Phillip
Sent: Tuesday, July 17, 2018 6:00 PM
To: Villatora, Liliana <Villatora.Liliana@epa.gov>; Cardile, Joseph <Cardile.Joseph@epa.gov>; LaVigna, Gaetano <LaVigna.Gaetano@epa.gov>
Cc: Buettner, Robert <Buettner.Robert@epa.gov>; Urdaz, Damaris <Urdaz.Damaris@epa.gov>
Subject: RE: SETTLEMENT CONFIDENTIAL - Town of Brookhaven and Wehran Energy Corp. - SEP

From: Villatora, Liliana
Sent: Tuesday, July 17, 2018 5:33 PM
To: Ritz, Phillip <Ritz.Phillip@epa.gov>; Cardile, Joseph <Cardile.Joseph@epa.gov>; LaVigna, Gaetano <LaVigna.Gaetano@epa.gov>
Cc: Buettner, Robert <Buettner.Robert@epa.gov>; Urdaz, Damaris <Urdaz.Damaris@epa.gov>
Subject: FW: SETTLEMENT CONFIDENTIAL - Town of Brookhaven and Wehran Energy Corp. - SEP

Ex. 5 DP/AC

Ex. 5 DP/AC

Message

From: Buettner, Robert [Buettner.Robert@epa.gov]
Sent: 11/14/2018 5:11:54 PM
To: Leong, Denise [Leong.Denise@epa.gov]; Cardile, Joseph [Cardile.Joseph@epa.gov]
CC: LaVigna, Gaetano [LaVigna.Gaetano@epa.gov]; Kan, Richard [Kan.Richard@epa.gov]; Floto, Erin [Floto.Erin@epa.gov]
Subject: RE: questions about EPA's SEP Policy

Ex. 5 Attorney Client (AC)

Robert Buettner
Chief, Air Compliance Branch

US EPA Region 2 DECA/ACB
290 Broadway, 21st Floor
New York NY 10007

buettner.robert@epa.gov
(212) 637 5031

CONFIDENTIAL: This transmission may contain deliberative and/or enforcement confidential, attorney-client, or otherwise privileged material. Do not release under FOIA without appropriate review. If you have received this message in error, you are asked to notify the sender and to delete this message.

-----Original Message-----
From: Leong, Denise
Sent: Wednesday, November 14, 2018 11:22 AM
To: Cardile, Joseph <Cardile.Joseph@epa.gov>; Buettner, Robert <Buettner.Robert@epa.gov>
Cc: LaVigna, Gaetano <LaVigna.Gaetano@epa.gov>; Kan, Richard <Kan.Richard@epa.gov>
Subject: RE: questions about EPA's SEP Policy

Ex. 5 Attorney Client (AC)

-----Original Message-----
From: Cardile, Joseph
Sent: Tuesday, November 13, 2018 5:47 PM
To: Buettner, Robert <Buettner.Robert@epa.gov>
Cc: LaVigna, Gaetano <LaVigna.Gaetano@epa.gov>; Leong, Denise <Leong.Denise@epa.gov>; Kan, Richard <Kan.Richard@epa.gov>
Subject: RE: questions about EPA's SEP Policy

Hi Folks,

Ex. 5 Attorney Client (AC)

Joe

-----Original Message-----
From: Buettner, Robert
Sent: Tuesday, November 13, 2018 2:53 PM
To: Cardile, Joseph <Cardile.Joseph@epa.gov>
Cc: LaVigna, Gaetano <LaVigna.Gaetano@epa.gov>
Subject: FW: questions about EPA's SEP Policy

Ex. 5 Attorney Client (AC)

Robert Buettner
Chief, Air Compliance Branch

US EPA Region 2 DECA/ACB
290 Broadway, 21st Floor
New York NY 10007

buettner.robert@epa.gov
(212) 637 5031

CONFIDENTIAL: This transmission may contain deliberative and/or enforcement confidential, attorney-client, or otherwise privileged material. Do not release under FOIA without appropriate review. If you have received this message in error, you are asked to notify the sender and to delete this message.

-----Original Message-----
From: Leong, Denise
Sent: Tuesday, November 13, 2018 2:38 PM
To: Buettner, Robert <Buettner.Robert@epa.gov>
Subject: FW: questions about EPA's SEP Policy

fyi

Denise Leong
U.S. Environmental Protection Agency, Region 2 Office of Regional Counsel, Air Branch
290 Broadway, 16th Floor
New York, NY 10007
Phone: (212) 637-3214
Fax: (212) 637-3199

Note: This transmission may contain confidential communications, attorney work product, enforcement sensitive, attorney-client and/or other privileged materials. Do not release under FOIA without appropriate review. If this message was sent to you in error, you must delete it and not print, copy re-transmit, disseminate, or otherwise use the information.

-----Original Message-----
From: Cho, James (USANYE) <James.Cho@usdoj.gov>
Sent: Tuesday, November 13, 2018 11:47 AM
To: Leong, Denise <Leong.Denise@epa.gov>
Cc: LaVigna, Gaetano <LaVigna.Gaetano@epa.gov>; Villatora, Liliana <Villatora.Liliana@epa.gov>
Subject: Fwd: questions about EPA's SEP Policy

See updated email below.

James R. Cho
Assistant U.S. Attorney
U.S. Attorney's Office
Eastern District of New York
271-A Cadman Plaza East, 7th floor<x-apple-data-detectors://9/0>
Brooklyn, New York 11201<x-apple-data-detectors://9/0>
718-254-6519<tel:718-254-6519> (direct)
718-254-7483<tel:718-254-7483> (fax)
james.cho@usdoj.gov<mailto:james.cho@usdoj.gov>

Begin forwarded message:

From: Eli Eilbott <EDE@dwgp.com<mailto:EDE@dwgp.com>>
Date: November 13, 2018 at 11:33:30 AM EST
To: "James.Cho@usdoj.gov<mailto:James.Cho@usdoj.gov>" <James.Cho@usdoj.gov<mailto:James.Cho@usdoj.gov>>
Subject: RE: questions about EPA's SEP Policy

PRIVILEGED AND CONFIDENTIAL
FOR SETTLEMENT PURPOSES ONLY
NOT ADMISSIBLE PURSUANT TO F.R.E. 408

Actually, re-reading the SEP Policy language quoted in my question no 1 below, I believe my figure of 7A s not correct, since I added 10% of the economic benefit component when it should be 10% of the gravity component. I believe that translates into approximately 7A for the economic benefit component, plus 10% of the 7A gravity component). So, a SEP would seem to make even less sense, assuming the foregoing is correct.

From: Eli Eilbott
Sent: Tuesday, November 13, 2018 11:21 AM
To: James.Cho@usdoj.gov<mailto:James.Cho@usdoj.gov>
Subject: questions about EPA's SEP Policy
Importance: High

PRIVILEGED AND CONFIDENTIAL
FOR SETTLEMENT PURPOSES ONLY
NOT ADMISSIBLE PURSUANT TO F.R.E. 408

Mr. Cho,

Thanks again for this past Friday's meeting with the Village of Rockville Centre. Since that time we've been reviewing EPA's SEP policy, which I believe was most recently updated in March 2015, according to this info: https://www.epa.gov/sites/production/files/2015-04/documents/sepupdatedpolicy15.pdf

The Village had a few questions for your team regarding how a potential SEP implemented by the Village as part of a settlement of the Feb. 2012 NOV might work. Because Mr. Andreas will be meeting with the Village Trustees this Thursday to discuss this matter and because EPA and the Village are scheduled to meet again on Nov. 27, I would greatly appreciate it if you/EPA could clarify the following by COB tomorrow if at all possible:

1. As I read Section IX.B.1 of the Policy, at page 21, where a settlement includes a SEP, the amount of the penalty must be equal to the greater of (a) the economic benefit of noncompliance plus ten percent of the gravity component, or (b) twenty-five percent of the gravity component. 7A

7A

2. At the top of p.24 of the Policy, in Section IX.C, it states that "The amount of penalty mitigation given for a SEP should be equivalent to a percentage of the estimated cost to implement the SEP and should not exceed eighty percent (80%) of that estimated cost." Further down on that same page, however, it provides that "For defendants that are . . . government agencies or entities . . . the penalty mitigation amount may be set as high as one hundred percent (100%) of the estimated SEP cost, if the defendant can demonstrate the project is of outstanding quality." Footnote 33 on that page, in turn, states "Outstanding quality may be based on how well a SEP meets and exceeds one or more of the evaluation criteria described in Section VIII, as well as on relevant case-specific factors." To help the Village better understand the possibility that a potential SEP it might implement would earn a 100% penalty mitigation, could EPA provide any more concrete information on what it might consider a SEP of "outstanding quality"? I realize the Policy states this is a case-by-case determination, but any additional info EPA could provide on this point would be helpful.

3. In Section X at page 25 of the Policy, it states that certain project-related costs must be excluded from the portion of the SEP eligible for penalty mitigation. The Policy states that "Examples of costs to consider that are generally not appropriate for inclusion include: overhead; additional employee time and salary; administrative expenses; most legal fees; and contractor oversight." I'm struggling to understand those examples, since they seem quite broad. If Village employees implement a SEP within the Village boundaries, would the Village's cost for that employee labor be considered "additional" time and salary and thus completely excluded from the mitigation eligibility? Would the only mitigation-eligible costs of such a project be parts/materials/equipment? And can EPA shed light on how broad or narrow the definition of "administration expenses" is in that portion of the Policy?

4. Section XII.A.2 at page 36 of the Policy seems to provide EPA with discretion in a particular settlement to exempt the proposed SEP from one or more requirements of the Policy. There it states as follows: "In all cases including a SEP which may not fully comply with the provisions of this Policy (e.g., the proposed settlement penalty is less than the minimum required penalty) . . . the settlement and the SEP must be approved by the Assistant Administrator for OECA." If I'm reading that catch-all exception correctly, EPA would have the discretion, for example, to accept a penalty payment by the Village at a level lower than what would seem otherwise required by the section of the Policy that I quote in my question 1 above. At what point in the SEP review process would EPA make such a decision?

Lastly, a question not directed to the SEP Policy. Specifically, to what extent, if any, would EPA allow the Village to pay the penalty portion of a settlement in installments (e.g., payment of one-quarter the total penalty each year for four consecutive years) as opposed to requiring the Village to make a one-time upfront payment of the entire penalty?

Thank you in advance for your assistance with this. Again, given the meeting with the Trustees this Thursday, we'd greatly appreciate receiving EPA's responses to the foregoing by COB tomorrow if possible.

Eli

Eli D. Eilbott

[Description: Description: cid:YMHZYIOFYWWM.IMAGE_28.png]

1615 M Street NW | Suite 800 | Washington, DC 20036
(202) 467-6370 | ede@dwgp.com<mailto:ede@dwgp.com> www.dwgp.com<http://www.dwgp.com/>

This communication is from a law firm and may contain confidential and/or privileged information. If it has been sent to you in error, please contact the sender for instructions concerning return or destruction, and do not use or disclose the contents to others.

Message

From: Ritz, Phillip [Ritz.Phillip@epa.gov]
Sent: 7/9/2019 9:56:00 PM
To: Cardile, Joseph [Cardile.Joseph@epa.gov]
Subject: FW: Brookhaven

From: Urdaz, Damaris
Sent: Tuesday, July 09, 2019 4:58 PM
To: Ritz, Phillip <Ritz.Phillip@epa.gov>
Subject: FW: Brookhaven

Ex. 5 DP/AC/AWP

From: Simon, Paul
Sent: Wednesday, July 3, 2019 3:24 PM
To: Villatora, Liliana <Villatora.Liliana@epa.gov>; Urdaz, Damaris <Urdaz.Damaris@epa.gov>
Subject: Brookhaven

Ex. 5 DP/AC/AWP

Message

From: Ritz, Phillip [Ritz.Phillip@epa.gov]
Sent: 7/8/2019 3:38:28 PM
To: Cardile, Joseph [Cardile.Joseph@epa.gov]; LaVigna, Gaetano [LaVigna.Gaetano@epa.gov]; Urdaz, Damaris [Urdaz.Damaris@epa.gov]
Subject: Fw: Brookhaven - SEP

From: Buettner, Robert
Sent: Thursday, May 25, 2017 7:52 AM
To: Simpson, James
Cc: LaVigna, Gaetano; Ritz, Phillip; Cardile, Joseph; Villatora, Liliana
Subject: Re: Brookhaven - SEP

Ex. 5 DP/AC/AWP

Robert

Robert Buettner
Chief, Air Compliance Branch

US EPA Region 2 DECA/ACB
290 Broadway, 21st Floor
New York NY 10007

buettner.robert@epa.gov
(212) 637 5031

CONFIDENTIAL: This transmission may contain deliberative and/or enforcement confidential, attorney-client, or otherwise privileged material. Do not release under FOIA without appropriate review. If you have received this message in error, you are asked to notify the sender and to delete this message.

On May 24, 2017, at 4:52 PM, Simpson, James <Simpson.James@epa.gov> wrote:

Hi all,

Ex. 5 DP/AC/AWP

Regards,
Jay

James L. Simpson
Assistant Regional Counsel
U.S. EPA, Region 2
290 Broadway, 16th Floor
New York, New York 10007
212-637-3245 (direct)
Simpson.James@epa.gov

CONFIDENTIAL: This transmission may contain deliberative, attorney-client, attorney work product or otherwise privileged material. Do not release under FOIA without appropriate review. If this message was sent to you in error, you are instructed to delete this message from your machine and all storage media whether electronic or hard copy.

Please consider the environment before printing this email.

Message

From: Ritz, Phillip [Ritz.Phillip@epa.gov]
Sent: 7/8/2019 3:38:03 PM
To: Cardile, Joseph [Cardile.Joseph@epa.gov]; LaVigna, Gaetano [LaVigna.Gaetano@epa.gov]; Urdaz, Damaris [Urdaz.Damaris@epa.gov]
Subject: Fw: Brookhaven SEP Discussion

From: Cardile, Joseph
Sent: Tuesday, February 6, 2018 6:07 PM
To: Jonesi, Gary; Buettner, Robert; Makepeace, Caroline; Villatora, Liliana; LaVigna, Gaetano; Urdaz, Damaris; Ritz, Phillip
Cc: Williamson, Caroline
Subject: RE: Brookhaven SEP Discussion

Thanks Gary.

Joe

From: Jonesi, Gary
Sent: Tuesday, February 06, 2018 6:06 PM
To: Cardile, Joseph <Cardile.Joseph@epa.gov>; Buettner, Robert <Buettner.Robert@epa.gov>; Makepeace, Caroline <Makepeace.Caroline@epa.gov>; Villatora, Liliana <Villatora.Liliana@epa.gov>; LaVigna, Gaetano <LaVigna.Gaetano@epa.gov>; Urdaz, Damaris <Urdaz.Damaris@epa.gov>; Ritz, Phillip <Ritz.Phillip@epa.gov>
Cc: Williamson, Caroline <williamson.caroline@epa.gov>
Subject: RE: Brookhaven SEP Discussion

Hi everyone. Good call today.

I'm sorry for the delay in getting back to you, and want to apologize because I turns out that NREL's Jobs & Economic Development Impacts (JEDI) solar model (https://www.nrel.gov/analysis/jedi/csp.html) is just for utility scale Concentrating Solar Power (CSP) projects and not solar PV. But, NREL's SAM (https://sam.nrel.gov/) and CREST models (https://financere.nrel.gov/finance/content/crest-cost-energy-models) can be used to estimate project benefits, if not jobs. Also, NREL's PVWatts online model (http://pvwatts.nrel.gov/) is very helpful and even easier to use.

Let me know if you need any help, and sorry again for misleading you about JEDI. The proposed SEP looks very promising. May the (solar-powered energy) force be with you. ☺

--Gary

Be kind to the environment.
Please do not print this email unless necessary.

Gary A. Jonesi
Office of Civil Enforcement
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W. (Rm. 4102-C)
Washington, D.C. 20004

202-564-4002 (direct)
703-304-6392 (cell)
jonesi.gary@epa.gov

-----Original Appointment-----
From: Cardile, Joseph
Sent: Thursday, February 01, 2018 5:59 PM
To: Cardile, Joseph; Buettner, Robert; Makepeace, Caroline; Villatora, Liliana; Jonesi, Gary; LaVigna, Gaetano; Urdaz, Damaris; Ritz, Phillip
Cc: Williamson, Caroline
Subject: Brookhaven SEP Discussion
When: Tuesday, February 06, 2018 4:00 PM-4:30 PM (UTC-05:00) Eastern Time (US & Canada).
Where: Conf Rm 2134A

1. Dial the toll-free Conference Number - 844-637-3111
2. Enter your 5-digit Conference Extension - 84064
3. If you are a participant press (2) - Enter your 6-digit Access Code – 123456

Message

From: Ritz, Phillip [Ritz.Phillip@epa.gov]
Sent: 8/22/2018 7:05:07 PM
To: Cardile, Joseph [Cardile.Joseph@epa.gov]
Subject: highlight for brookhaven

Ex. 5 AC/DP

CONFIDENTIAL: This transmission may contain deliberative and/or enforcement confidential, attorney-client, or otherwise privileged material. Do not release under FOIA without appropriate review. If you have received this message in error, you are asked to notify the sender and to delete this message.

Appointment

From: Buettner, Robert [Buettner.Robert@epa.gov]
Sent: 8/9/2018 11:37:28 AM
To: Patel, Harish [Patel.Harish@epa.gov]; Villatora, Liliana [Villatora.Liliana@epa.gov]; LaVigna, Gaetano [LaVigna.Gaetano@epa.gov]; Cardile, Joseph [Cardile.Joseph@epa.gov]

Subject: FW: Region 2 Check-in

Start: 9/12/2013 1:00:00 PM
End: 9/12/2013 2:00:00 PM
Show Time As: Tentative

Importance: High

Recurrence: Monthly
Occurs every month on the second Thursday of the month from 9:00 AM to 10:00 AM effective 9/12/2013.

Harish, Guy Please cover this meeting ACB;

Port MBr enforcement issues raised by states
Stonybrook SSI
TCC status
DOE settlement and SEP issues or concerns
Brookhaven SEP nexus issues
Anything else ORC, Harish or Guy raise

-----Original Appointment-----
From: Fried, Gregory
Sent: Monday, June 16, 2014 4:01 PM
To: Fried, Gregory; LaVigna, Gaetano; Froikin, Sara; Spina, Providence
Cc: Buettner, Robert; Villatora, Liliana; Klepp, Robert; Patel, Harish; Leong, Denise; Simpson, James
Subject: Region 2 Check-in
When: Occurs the second Thursday of every 1 month(s) effective 9/12/2013 from 9:00 AM to 10:00 AM (UTC-05:00) Eastern Time (US & Canada).
Where:

Message

From: Villatora, Liliana [Villatora.Liliana@epa.gov]
Sent: 7/17/2018 12:33:53 PM
To: Cardile, Joseph [Cardile.Joseph@epa.gov]
CC: Buettner, Robert [Buettner.Robert@epa.gov]; LaVigna, Gaetano [LaVigna.Gaetano@epa.gov]; Ritz, Phillip [Ritz.Phillip@epa.gov]
Subject: RE: SETTLEMENT CONFIDENTIAL - Town of Brookhaven and Wehran Energy Corp. - SEP

Ex. 5 DP/AC/AWP

From: Cardile, Joseph
Sent: Monday, July 16, 2018 1:40 PM
To: Villatora, Liliana <Villatora.Liliana@epa.gov>
Cc: Buettner, Robert <Buettner.Robert@epa.gov>; LaVigna, Gaetano <LaVigna.Gaetano@epa.gov>; Ritz, Phillip <Ritz.Phillip@epa.gov>
Subject: FW: SETTLEMENT CONFIDENTIAL - Town of Brookhaven and Wehran Energy Corp. - SEP

Ex. 5 DP/AC/AWP

From: Cardile, Joseph
Sent: Thursday, February 01, 2018 6:18 PM
To: Makepeace, Caroline <Makepeace.Caroline@epa.gov>
Cc: Jonesi, Gary <Jonesi.Gary@epa.gov>; Buettner, Robert <Buettner.Robert@epa.gov>; Villatora, Liliana <Villatora.Liliana@epa.gov>; Urdaz, Damaris <Urdaz.Damaris@epa.gov>; Ritz, Phillip <Ritz.Phillip@epa.gov>
Subject: FW: SETTLEMENT CONFIDENTIAL - Town of Brookhaven and Wehran Energy Corp. - SEP

Ex. 5 DP/AC/AWP

Joseph Cardile, Environmental Engineer
Stationary Source Compliance Section
Air Compliance Branch
U.S. EPA, Region 2
290 Broadway, 21st Floor
New York, New York 10007-1866
Phone (212) 637-4054
Email: Cardile.Joseph@epa.gov

CONFIDENTIAL: This transmission may contain deliberative and/or enforcement confidential, attorney-client, or otherwise privileged material. Do not release under FOIA without appropriate review. If you have received this message in error, you are asked to notify the sender and to delete this message.

From: Ritz, Phillip
Sent: Thursday, February 01, 2018 6:14 PM
To: Cardile, Joseph <Cardile.Joseph@epa.gov>
Subject: FW: SETTLEMENT CONFIDENTIAL - Town of Brookhaven and Wehran Energy Corp. - SEP

From: Simpson, James
Sent: Thursday, April 13, 2017 3:35 PM
To: Ritz, Phillip <Ritz.Phillip@epa.gov>; LaVigna, Gaetano <LaVigna.Gaetano@epa.gov>; Buettner, Robert <Buettner.Robert@epa.gov>
Cc: Villatora, Liliana <Villatora.Liliana@epa.gov>
Subject: FW: SETTLEMENT CONFIDENTIAL - Town of Brookhaven and Wehran Energy Corp. - SEP

Ex. 5 DP/AC/AWP

Regards,
Jay

From: Robbins, Virginia [mailto:RobbinV@bsk.com]
Sent: Thursday, April 13, 2017 12:39 PM
To: Simpson, James <Simpson.James@epa.gov>
Cc: Beckmann, Diane (USANYE) <Diane.Beckmann@usdoj.gov>; Kevin Johnston <kjohnston@brookhavenny.gov>; Michael J. Cahill <MJC@GermanoCahill.com>; Tyson, Robert <TysonR@BSK.com>
Subject: SETTLEMENT CONFIDENTIAL - Town of Brookhaven and Wehran Energy Corp. - SEP

Dear Jay,
On behalf of the Town of Brookhaven and Wehran Energy, please find attached for USEPA's review and comment our letter dated today detailing the estimated costs and task schedule for the proposed Supplemental Environmental Project involving the installation of a solar energy conversion system by the Town.
I am available to discuss this letter at your convenience.
Best, Ginny

Virginia C. Robbins, Esq.
Environmental and Energy Practice Group
315.218.8182 Direct
315.218.8000 Alt
315.218.8100 Fax
315.569.4538 Cell
vrobbins@bsk.com
Bio

BOND SCHOENECK & KING ATTORNEYS
Commitment · Service · Value · Our Bond
One Lincoln Center, Syracuse, NY 13202-1355
This email is ONLY for the person(s) named in the message header. Unless otherwise indicated, it contains information that is confidential, privileged or exempt from disclosure under applicable law. If you have received it in error, please notify the sender of the error and delete the message.

Message

From: Buettner, Robert [Buettner.Robert@epa.gov]
Sent: 1/23/2018 4:29:50 PM
To: Cardile, Joseph [Cardile.Joseph@epa.gov]
Subject: Ex. 5 AC

Ex. 5 AC

From: Makepeace, Caroline
Sent: Wednesday, January 10, 2018 4:00 PM
To: Cardile, Joseph <Cardile.Joseph@epa.gov>
Cc: Buettner, Robert <Buettner.Robert@epa.gov>; Villatora, Liliana <Villatora.Liliana@epa.gov>; LaVigna, Gaetano <LaVigna.Gaetano@epa.gov>; Urdaz, Damaris <Urdaz.Damaris@epa.gov>; Ritz, Phillip <Ritz.Phillip@epa.gov>; Jonesi, Gary <Jonesi.Gary@epa.gov>
Subject: Ex. 5 AC

Hi Joe, et al.,

Ex. 5 AC

Caroline Makepeace
Senior Counsel
Crosscutting Policy Staff
Office of Civil Enforcement
US Environmental Protection Agency
202-564-6012

This may contain enforcement confidential or privileged material. Do not release without appropriate review. If you have received this message in error, please inform the sender, and promptly delete.

From: Cardile, Joseph
Sent: Wednesday, January 10, 2018 3:29 PM
To: Makepeace, Caroline <Makepeace.Caroline@epa.gov>
Cc: Buettner, Robert <Buettner.Robert@epa.gov>; Villatora, Liliana <Villatora.Liliana@epa.gov>; LaVigna, Gaetano <LaVigna.Gaetano@epa.gov>; Urdaz, Damaris <Urdaz.Damaris@epa.gov>; Ritz, Phillip <Ritz.Phillip@epa.gov>
Subject: Ex. 5 AC

Hi Caroline,

Ex. 5 AC

Thx
Joe

Joseph Cardile, Environmental Engineer
Stationary Source Compliance Section
Air Compliance Branch
U.S. EPA, Region 2
290 Broadway, 21st Floor
New York, New York 10007-1866
Phone (212) 637-4054
Email: Cardile.Joseph@epa.gov

CONFIDENTIAL: This transmission may contain deliberative and/or enforcement confidential, attorney-client, or otherwise privileged material. Do not release under FOIA without appropriate review. If you have received this message in error, you are asked to notify the sender and to delete this message.

Message

From: Buettner, Robert [Buettner.Robert@epa.gov]
Sent: 11/13/2018 9:22:18 PM
To: Floto, Erin [Floto.Erin@epa.gov]
CC: Cardile, Joseph [Cardile.Joseph@epa.gov]
Subject: RE: questions about EPA's SEP Policy

Importance: High

Erin,

Ex. 5 AC/DP

Robert Buettner
Chief, Air Compliance Branch

US EPA Region 2 DECA/ACB
290 Broadway, 21st Floor
New York NY 10007

buettner.robert@epa.gov
(212) 637 5031

CONFIDENTIAL: This transmission may contain deliberative and/or enforcement confidential, attorney-client, or otherwise privileged material. Do not release under FOIA without appropriate review. If you have received this message in error, you are asked to notify the sender and to delete this message.

-----Original Message-----
From: Floto, Erin
Sent: Tuesday, November 13, 2018 3:20 PM
To: Buettner, Robert <Buettner.Robert@epa.gov>
Cc: Cardile, Joseph <Cardile.Joseph@epa.gov>
Subject: RE: questions about EPA's SEP Policy

Robert,

Ex. 5 AC/DP

Erin Floto, M.S.

Physical Scientist
Compliance Assistance and Program Support Branch Division of Enforcement and Compliance Assistance
Environmental Protection Agency
Office: (212) 637-4007
floto.erin@epa.gov

-----Original Message-----
From: Buettner, Robert
Sent: Tuesday, November 13, 2018 3:02 PM
To: Floto, Erin <Floto.Erin@epa.gov>
Cc: Cardile, Joseph <Cardile.Joseph@epa.gov>
Subject: FW: questions about EPA's SEP Policy

Erin,

Can you share examples of a SIP of "outstanding quality" ?They are in violation of the SIP and NOx exceedances.

Also do you have a HQ OECA SIP expert POC?

For some background look below.

Robert Buettner
Chief, Air Compliance Branch

US EPA Region 2 DECA/ACB
290 Broadway, 21st Floor
New York NY 10007

buettner.robert@epa.gov
(212) 637 5031

CONFIDENTIAL: This transmission may contain deliberative and/or enforcement confidential, attorney-client, or otherwise privileged material. Do not release under FOIA without appropriate review. If you have received this message in error, you are asked to notify the sender and to delete this message.

-----Original Message-----
From: Leong, Denise
Sent: Tuesday, November 13, 2018 2:38 PM
To: Buettner, Robert <Buettner.Robert@epa.gov>
Subject: FW: questions about EPA's SEP Policy

fyi

Denise Leong
U.S. Environmental Protection Agency, Region 2 Office of Regional Counsel, Air Branch
290 Broadway, 16th Floor
New York, NY 10007
Phone: (212) 637-3214
Fax: (212) 637-3199

Note: This transmission may contain confidential communications, attorney work product, enforcement sensitive, attorney-client and/or other privileged materials. Do not release under FOIA without appropriate review. If this message was sent to you in error, you must delete it and not print, copy re-transmit, disseminate, or otherwise use the information.

-----Original Message-----
From: Cho, James (USANYE) <James.Cho@usdoj.gov>
Sent: Tuesday, November 13, 2018 11:47 AM
To: Leong, Denise <Leong.Denise@epa.gov>
Cc: LaVigna, Gaetano <LaVigna.Gaetano@epa.gov>; Villatora, Liliana <Villatora.Liliana@epa.gov>
Subject: Fwd: questions about EPA's SEP Policy

See updated email below.

James R. Cho
Assistant U.S. Attorney
U.S. Attorney's Office
Eastern District of New York
271-A Cadman Plaza East, 7th floor<x-apple-data-detectors://9/0>
Brooklyn, New York 11201<x-apple-data-detectors://9/0>
718-254-6519<tel:718-254-6519> (direct)
718-254-7483<tel:718-254-7483> (fax)
james.cho@usdoj.gov<mailto:james.cho@usdoj.gov>

Begin forwarded message:

From: Eli Eilbott <EDE@dwgp.com<mailto:EDE@dwgp.com>>
Date: November 13, 2018 at 11:33:30 AM EST
To: "James.Cho@usdoj.gov<mailto:James.Cho@usdoj.gov>" <James.Cho@usdoj.gov<mailto:James.Cho@usdoj.gov>>
Subject: RE: questions about EPA's SEP Policy

PRIVILEGED AND CONFIDENTIAL
FOR SETTLEMENT PURPOSES ONLY
NOT ADMISSIBLE PURSUANT TO F.R.E. 408

Actually, re-reading the SEP Policy language quoted in my question no 1 below, I believe my figure of 7A is not correct, since I added 10% of the economic benefit component when it should be 10% of the gravity component. I believe that translates into approximately 7A for the economic benefit component, plus 10% of the 7A gravity component). So, a SEP would seem to make even less sense, assuming the foregoing is correct.

From: Eli Eilbott
Sent: Tuesday, November 13, 2018 11:21 AM

To: James.Cho@usdoj.gov<mailto:James.Cho@usdoj.gov>
Subject: questions about EPA's SEP Policy
Importance: High

PRIVILEGED AND CONFIDENTIAL
FOR SETTLEMENT PURPOSES ONLY
NOT ADMISSIBLE PURSUANT TO F.R.E. 408

Mr. Cho,

Thanks again for this past Friday's meeting with the Village of Rockville Centre. Since that time we've been reviewing EPA's SEP policy, which I believe was most recently updated in March 2015, according to this info: https://www.epa.gov/sites/production/files/2015-04/documents/sepupdatedpolicy15.pdf

The Village had a few questions for your team regarding how a potential SEP implemented by the Village as part of a settlement of the Feb. 2012 NOV might work. Because Mr. Andreas will be meeting with the Village Trustees this Thursday to discuss this matter and because EPA and the Village are scheduled to meet again on Nov. 27, I would greatly appreciate it if you/EPA could clarify the following by COB tomorrow if at all possible:

1. As I read Section IX.B.1 of the Policy, at page 21, where a settlement includes a SEP, the amount of the penalty must be equal to the greater of (a) the economic benefit of noncompliance plus ten percent of the gravity component, or (b) twenty-five percent of the gravity component. 7A

7A

2. At the top of p.24 of the Policy, in Section IX.C, it states that "The amount of penalty mitigation given for a SEP should be equivalent to a percentage of the estimated cost to implement the SEP and should not exceed eighty percent (80%) of that estimated cost." Further down on that same page, however, it provides that "For defendants that are . . . government agencies or entities . . . the penalty mitigation amount may be set as high as one hundred percent (100%) of the estimated SEP cost, if the defendant can demonstrate the project is of outstanding quality." Footnote 33 on that page, in turn, states "Outstanding quality may be based on how well a SEP meets and exceeds one or more of the evaluation criteria described in Section VIII, as well as on relevant case-specific factors." To help the Village better understand the possibility that a potential SEP it might implement would earn a 100% penalty mitigation, could EPA provide any more concrete information on what it might consider a SEP of " outstanding quality"? I realize the Policy states this is a case-by-case determination, but any additional info EPA could provide on this point would be helpful.

3. In Section X at page 25 of the Policy, it states that certain project-related costs must be excluded from the portion of the SEP eligible for penalty mitigation. The Policy states that "Examples of costs to consider that are generally not appropriate for inclusion include: overhead; additional employee time and salary; administrative expenses; most legal fees; and contractor oversight." I'm struggling to understand those examples, since they seem quite broad. If Village employees implement a SEP within the Village boundaries, would the Village's cost for that employee labor be considered " additional" time and salary and thus completely excluded from the mitigation eligibility? Would the only mitigation-eligible costs of such a project be parts/materials/equipment? And can EPA shed light on how broad or narrow the definition of "administration expenses" is in that portion of the Policy?

4. Section XII.A.2 at page 36 of the Policy seems to provide EPA with discretion in a particular settlement to exempt the proposed SEP from one or more requirements of the Policy. There it states as follows: "In all cases including a SEP which may not fully comply with the provisions of this Policy (e.g., the proposed settlement penalty is less than the minimum required penalty) . . . the settlement and the SEP must be approved by the Assistant Administrator for OECA." If I'm reading that catch-all exception correctly, EPA would have the discretion, for example, to accept a penalty payment by the Village at a level lower than what would seem otherwise required by the section of the Policy that I quote in my question 1 above. At what point in the SEP review process would EPA make such a decision?

Lastly, a question not directed to the SEP Policy. Specifically, to what extent, if any, would EPA allow the Village to pay the penalty portion of a settlement in installments (e.g., payment of one-quarter the total penalty each year for four consecutive years) as opposed to requiring the Village to make a one-time upfront payment of the entire penalty?

Thank you in advance for your assistance with this. Again, given the meeting with the Trustees this Thursday, we'd greatly appreciate receiving EPA's responses to the foregoing by COB tomorrow if possible.

Eli

Eli D. Eilbott

[Description: Description: cid:YMHZYIOFYWWM.IMAGE_28.png]

1615 M Street NW | Suite 800 | Washington, DC 20036
(202) 467-6370 | ede@dwgp.com<mailto:ede@dwgp.com> www.dwgp.com<http://www.dwgp.com/>

This communication is from a law firm and may contain confidential and/or privileged information. If it has been sent to you in error, please contact the sender for instructions concerning return or destruction, and do not use or disclose the contents to others.

Message

From: Villatora, Liliana [Villatora.Liliana@epa.gov]
Sent: 3/14/2019 12:41:12 PM
To: Fried, Gregory [Fried.Gregory@epa.gov]; LaVigna, Gaetano [LaVigna.Gaetano@epa.gov]; Froikin, Sara [Froikin.Sara@epa.gov]; Spina, Providence [Spina.Providence@epa.gov]
CC: Buettner, Robert [Buettner.Robert@epa.gov]; Klepp, Robert [Klepp.Robert@epa.gov]; Patel, Harish [Patel.Harish@epa.gov]; Cardile, Joseph [Cardile.Joseph@epa.gov]
Subject: Ex. 5 AC

Ex. 5 AC

-----Original Appointment-----
From: Fried, Gregory
Sent: Monday, June 9, 2014 12:27 PM
To: Fried, Gregory; LaVigna, Gaetano; Froikin, Sara; Spina, Providence
Cc: Buettner, Robert; Villatora, Liliana; Klepp, Robert; Patel, Harish; Leong, Denise; Simpson, James; Cardile, Joseph
Subject: Ex. 5 AC
When: Thursday, March 14, 2019 9:00 AM-10:00 AM (UTC-05:00) Eastern Time (US & Canada).
Where:
Importance: High

Ex. 5 AC

-----Original Appointment-----
From: Fried, Gregory
Sent: Monday, June 16, 2014 4:01 PM
To: Fried, Gregory; LaVigna, Gaetano; Froikin, Sara; Spina, Providence
Cc: Buettner, Robert; Villatora, Liliana; Klepp, Robert; Patel, Harish; Leong, Denise; Simpson, James
Subject: Ex. 5 AC
When: Occurs the second Thursday of every 1 month(s) effective 9/12/2013 from 9:00 AM to 10:00 AM (UTC-05:00) Eastern Time (US & Canada).
Where:

Message

From: Urdaz, Damaris [Urdaz.Damaris@epa.gov]
Sent: 8/20/2018 6:22:50 PM
To: Villatora, Liliana [Villatora.Liliana@epa.gov]; LaVigna, Gaetano [LaVigna.Gaetano@epa.gov]; Ritz, Phillip [Ritz.Phillip@epa.gov]; Cardile, Joseph [Cardile.Joseph@epa.gov]
CC: Buettner, Robert [Buettner.Robert@epa.gov]
Subject:
Attachments:

Ex. 5 DP/AC/AWP

FYI

From: Robbins, Virginia [mailto:RobbinV@bsk.com]
Sent: Monday, August 20, 2018 1:47 PM
To: Diane.beckmann@usdoj.gov; Urdaz, Damaris <Urdaz.Damaris@epa.gov>
Cc: Kevin Johnston <kjohnston@brookhavenny.gov>; Michael J. Cahill <MJC@GermanoCahill.com>; Tyson, Robert <TysonR@BSK.com>
Subject: Request for Conference Call on August 22

Dear Diane and Damaris,
I would like to set up a conference call with you both and Kevin Johnston on Wednesday afternoon (8/22/18) this week to follow up on the items discussed during our July 30, 2018 call.
We are available Wednesday anytime other than between 3:00 and 3:30 PM.

We would like to discuss the following matters:

- Payable penalty and SEP amount in Consent Judgment
- New single 130-foot flare construction – existing flare must be replaced
- Submission to NYSDEC of a modification application for the Town's Title V Permit to incorporate the new flare construction and operation and other new applicable requirements (Subpart WWW and NAAQS for SO2 emissions)
- Confirmation of use of the Town's January 2015 *Air Quality Impact Analysis Report* in support of the 130-foot flare design to achieve the 1-hour SO2 standard

Regarding the payable penalty amount in the draft Consent Judgment that you provided, the $441,055 figure you have included represents not only the $249,166 payable amount that the Town offered to EPA on May 25, 2016, but also the SEP portion ($191,889) the Town offered (see the Town's May 25, 2016 counteroffer attached). This counteroffer was in response to EPA's May 19, 2016 settlement offer of a payable penalty of $307,847 (see attached).

The parties bridged the gap of $58,679 in the payable penalty amount by the Town's offering to implement certain information transparency initiatives pursuant to EPA's November 14, 2012 "Mitigation as Injunctive Relief" policy. On my call with Jay Simpson on December 13, 2016, he confirmed that EPA accepted the Town's May 25 payable penalty offer and its offer of certain mitigation actions. We can discuss these actions during our call.

Best, Ginny

Virginia C. Robbins, Esq.
Environmental and Energy Practice Group
315.218.8182 Direct
315.218.8000 Alt
315.218.8100 Fax
315.569.4538 Cell
vrobbins@bsk.com
Bio

One Lincoln Center, Syracuse, NY 13202-1355
This email is ONLY for the person(s) named in the message header. Unless otherwise indicated, it contains information that is confidential, privileged or exempt from disclosure under applicable law. If you have received it in error, please notify the sender of the error and delete the message.

Message

From: Makepeace, Caroline [Makepeace.Caroline@epa.gov]
Sent: 2/5/2018 9:47:29 PM
To: Cardile, Joseph [Cardile.Joseph@epa.gov]
CC: Buettner, Robert [Buettner.Robert@epa.gov]; Villatora, Liliana [Villatora.Liliana@epa.gov]; LaVigna, Gaetano [LaVigna.Gaetano@epa.gov]; Urdaz, Damaris [Urdaz.Damaris@epa.gov]; Ritz, Phillip [Ritz.Phillip@epa.gov]
Subject: Ex. 5 DP/AC/AWP

Thanks!! Talk to you all tomorrow!

Caroline Makepeace
Senior Counsel
Crosscutting Policy Staff
Office of Civil Enforcement
US Environmental Protection Agency
202-564-6012

This may contain enforcement confidential or privileged material. Do not release without appropriate review. If you have received this message in error, please inform the sender, and promptly delete.

From: Cardile, Joseph
Sent: Monday, February 05, 2018 4:46 PM
To: Makepeace, Caroline <Makepeace.Caroline@epa.gov>
Cc: Buettner, Robert <Buettner.Robert@epa.gov>; Villatora, Liliana <Villatora.Liliana@epa.gov>; LaVigna, Gaetano <LaVigna.Gaetano@epa.gov>; Urdaz, Damaris <Urdaz.Damaris@epa.gov>; Ritz, Phillip <Ritz.Phillip@epa.gov>
Subject: Ex. 5 DP/AC/AWP

Ex. 5 DP/AC/AWP

Thx
Joe

Joseph Cardile, Environmental Engineer
Stationary Source Compliance Section
Air Compliance Branch
U.S. EPA, Region 2
290 Broadway, 21st Floor
New York, New York 10007-1866
Phone (212) 637-4054
Email: Cardile.Joseph@epa.gov

CONFIDENTIAL: This transmission may contain deliberative and/or enforcement confidential, attorney-client, or otherwise privileged material. Do not release under FOIA without appropriate review. If you have received this message in error, you are asked to notify the sender and to delete this message.

From: Makepeace, Caroline
Sent: Monday, February 05, 2018 2:38 PM
To: Cardile, Joseph <Cardile.Joseph@epa.gov>
Subject: Ex. 5 DP/AC/AWP

Hi Joe,

Ex. 5 DP/AC/AWP

Caroline Makepeace
Senior Counsel
Crosscutting Policy Staff
Office of Civil Enforcement
US Environmental Protection Agency
202-564-6012

This may contain enforcement confidential or privileged material. Do not release without appropriate review. If you have received this message in error, please inform the sender, and promptly delete.

From: Cardile, Joseph
Sent: Thursday, February 01, 2018 6:18 PM
To: Makepeace, Caroline <Makepeace.Caroline@epa.gov>
Cc: Jonesi, Gary <Jonesi.Gary@epa.gov>; Buettner, Robert <Buettner.Robert@epa.gov>; Villatora, Liliana <Villatora.Liliana@epa.gov>; Urdaz, Damaris <Urdaz.Damaris@epa.gov>; Ritz, Phillip <Ritz.Phillip@epa.gov>
Subject: Ex. 5 DP/AC/AWP

Ex. 5 DP/AC/AWP

Thx
Joe

Joseph Cardile, Environmental Engineer
Stationary Source Compliance Section
Air Compliance Branch
U.S. EPA, Region 2
290 Broadway, 21st Floor
New York, New York 10007-1866
Phone (212) 637-4054
Email: Cardile.Joseph@epa.gov

CONFIDENTIAL: This transmission may contain deliberative and/or enforcement confidential, attorney-client, or otherwise privileged material. Do not release under FOIA without appropriate review. If you have received this message in error, you are asked to notify the sender and to delete this message.

From: Ritz, Phillip
Sent: Thursday, February 01, 2018 6:14 PM
To: Cardile, Joseph <Cardile.Joseph@epa.gov>
Subject: Ex. 5 DP/AC/AWP

From: Simpson, James
Sent: Thursday, April 13, 2017 3:35 PM

To: Ritz, Phillip <Ritz.Phillip@epa.gov>; LaVigna, Gaetano <LaVigna.Gaetano@epa.gov>; Buettner, Robert <Buettner.Robert@epa.gov>
Cc: Villatora, Liliana <Villatora.Liliana@epa.gov>
Subject: Ex. 5 DP/AC/AWP

Ex. 5 DP/AC/AWP

From: Robbins, Virginia [mailto:RobbinV@bsk.com]
Sent: Thursday, April 13, 2017 12:39 PM
To: Simpson, James <Simpson.James@epa.gov>
Cc: Beckmann, Diane (USANYE) <Diane.Beckmann@usdoj.gov>; Kevin Johnston <kjohnston@brookhavenny.gov>; Michael J. Cahill <MJC@GermanoCahill.com>; Tyson, Robert <TysonR@BSK.com>
Subject: SETTLEMENT CONFIDENTIAL - Town of Brookhaven and Wehran Energy Corp. - SEP

Dear Jay,
On behalf of the Town of Brookhaven and Wehran Energy, please find attached for USEPA's review and comment our letter dated today detailing the estimated costs and task schedule for the proposed Supplemental Environmental Project involving the installation of a solar energy conversion system by the Town.
I am available to discuss this letter at your convenience.
Best, Ginny

Virginia C. Robbins, Esq.
Environmental and Energy Practice Group
315.218.8182 Direct
315.218.8000 Alt
315.218.8100 Fax
315.569.4538 Cell
vrobbins@bsk.com
Bio

BOND SCHOENECK & KING ATTORNEYS
Commitment · Service · Value · Our Bond
One Lincoln Center, Syracuse, NY 13202-1355
This email is ONLY for the person(s) named in the message header. Unless otherwise indicated, it contains information that is confidential, privileged or exempt from disclosure under applicable law. If you have received it in error, please notify the sender of the error and delete the message.

Message

From: Ritz, Phillip [Ritz.Phillip@epa.gov]
Sent: 3/22/2018 3:33:51 PM
To: Villatora, Liliana [Villatora.Liliana@epa.gov]; Cardile, Joseph [Cardile.Joseph@epa.gov]; Urdaz, Damaris [Urdaz.Damaris@epa.gov]
Subject: FW: Brookhaven CD - DUE DATE
Attachments: Brookhaven.CJ.Draft 5.7.17 gl.docx

FYI

From: LaVigna, Gaetano
Sent: Wednesday, May 31, 2017 3:36 PM
To: Simpson, James <Simpson.James@epa.gov>; Buettner, Robert <Buettner.Robert@epa.gov>; Ritz, Phillip <Ritz.Phillip@epa.gov>
Cc: Villatora, Liliana <Villatora.Liliana@epa.gov>
Subject: RE: Brookhaven CD - DUE DATE

See attached comments

Gaetano La Vigna, Chief
Stationary Source Compliance Section
Air Compliance Branch
U.S. EPA Region 2
290 Broadway, 21st Floor
New York, New York 10007-1866
Phone (212) 637-4069
Email LaVigna.Gaetano@epa.gov

CONFIDENTIAL: This transmission may contain deliberative and/or enforcement confidential, attorney-client, or otherwise privileged material. Do not release under FOIA without appropriate review. If you have received this message in error, you are asked to notify the sender and to delete this message.

From: Simpson, James
Sent: Friday, May 19, 2017 11:53 AM
To: Buettner, Robert <Buettner.Robert@epa.gov>; LaVigna, Gaetano <LaVigna.Gaetano@epa.gov>; Ritz, Phillip <Ritz.Phillip@epa.gov>
Cc: Villatora, Liliana <Villatora.Liliana@epa.gov>
Subject: Brookhaven CD - DUE DATE
Importance: High

Hello folks,

Ex. 5 DP/AC/AWP

Ex. 5 DP/AC/AWP

Regards,
Jay

James L. Simpson
Assistant Regional Counsel
U.S. EPA, Region 2
290 Broadway, 16th Floor
New York, New York 10007
212-637-3245 (direct)
Simpson.James@epa.gov

CONFIDENTIAL: This transmission may contain deliberative, attorney-client, attorney work product or otherwise privileged material. Do not release under FOIA without appropriate review. If this message was sent to you in error, you are instructed to delete this message from your machine and all storage media whether electronic or hard copy.

Please consider the environment before printing this email.

Message

From: LaVigna, Gaetano [LaVigna.Gaetano@epa.gov]
Sent: 7/8/2019 1:44:44 PM
To: Urdaz, Damaris [Urdaz.Damaris@epa.gov]
CC: Cardile, Joseph [Cardile.Joseph@epa.gov]
Subject: RE: Brookhaven

Ex. 5 AC

Gaetano La Vigna, Chief
Stationary Source Compliance Section
Air Compliance Branch
U.S. EPA Region 2
290 Broadway, 21st Floor
New York, New York 10007-1866
Phone (212) 637-4069
Email LaVigna.Gaetano@epa.gov

CONFIDENTIAL: This transmission may contain deliberative and/or enforcement confidential, attorney-client, or otherwise privileged material. Do not release under FOIA without appropriate review. If you have received this message in error, you are asked to notify the sender and to delete this message.

From: Urdaz, Damaris
Sent: Monday, July 08, 2019 9:34 AM
To: LaVigna, Gaetano <LaVigna.Gaetano@epa.gov>
Subject: Brookhaven

Ex. 5 AC

As always—thank you for any assistance you can provide.

Message

From: Buettner, Robert [Buettner.Robert@epa.gov]
Sent: 7/12/2018 10:09:29 PM
To: Cardile, Joseph [Cardile.Joseph@epa.gov]
CC: Buenning, Hans [Buenning.Hans@epa.gov]
Subject: Ex. 5 AC/AWP

Can you turn this into an update.

Robert Buettner
Chief, Air Compliance Branch

US EPA Region 2 DECA/ACB
290 Broadway, 21st Floor
New York NY 10007

buettner.robert@epa.gov
(212) 637 5031

CONFIDENTIAL: This transmission may contain deliberative and/or enforcement confidential, attorney-client, or otherwise privileged material. Do not release under FOIA without appropriate review. If you have received this message in error, you are asked to notify the sender and to delete this message.

From: Villatora, Liliana
Sent: Tuesday, July 10, 2018 10:45 AM
To: Buettner, Robert <Buettner.Robert@epa.gov>; Urdaz, Damaris <Urdaz.Damaris@epa.gov>; LaVigna, Gaetano <LaVigna.Gaetano@epa.gov>
Subject Ex. 5 AC/AWP

Ex. 5 AC/AWP

From: Buettner, Robert
Sent: Tuesday, July 10, 2018 10:43 AM
To: Villatora, Liliana <Villatora.Liliana@epa.gov>; Urdaz, Damaris <Urdaz.Damaris@epa.gov>; LaVigna, Gaetano <LaVigna.Gaetano@epa.gov>
Subject Ex. 5 AC/AWP

Ex. 5 AC/AWP

Robert

Robert Buettner
Chief, Air Compliance Branch

US EPA Region 2 DECA/ACB
290 Broadway, 21st Floor
New York NY 10007

buettner.robert@epa.gov
(212) 637 5031

CONFIDENTIAL: This transmission may contain deliberative and/or enforcement confidential, attorney-client, or otherwise privileged material. Do not release under FOIA without appropriate review. If you have received this message in error, you are asked to notify the sender and to delete this message.

From: Villatora, Liliana
Sent: Tuesday, July 10, 2018 10:33 AM
To: Urdaz, Damaris <Urdaz.Damaris@epa.gov>; LaVigna, Gaetano <LaVigna.Gaetano@epa.gov>; Buettner, Robert <Buettner.Robert@epa.gov>
Subject: Ex. 5 AC/AWP

Ex. 5 AC/AWP

From: Urdaz, Damaris
Sent: Monday, July 2, 2018 9:28 AM
To: LaVigna, Gaetano <LaVigna.Gaetano@epa.gov>; Villatora, Liliana <Villatora.Liliana@epa.gov>
Subject: Ex. 5 AC/AWP

Guy/Lilianna:

Ex. 5 AC/AWP

Message

From: Ritz, Phillip [Ritz.Phillip@epa.gov]
Sent: 3/22/2018 2:12:43 PM
To: Cardile, Joseph [Cardile.Joseph@epa.gov]
Subject:
Attachments:

Ex. 5 AC/AWP/DP

Ex. 5 DP/AC/AWP

From: Simpson, James
Sent: Friday, March 10, 2017 3:09 PM
To: Buettner, Robert <Buettner.Robert@epa.gov>; LaVigna, Gaetano <LaVigna.Gaetano@epa.gov>; Ritz, Phillip <Ritz.Phillip@epa.gov>
Cc: Villatora, Liliana <Villatora.Liliana@epa.gov>
Subject: Ex. 5 AC/AWP/DP

Hello All,

Ex. 5 DP/AC/AWP

Regards,
Jay

James L. Simpson
Assistant Regional Counsel
U.S. EPA, Region 2
290 Broadway, 16th Floor
New York, New York 10007
212-637-3245 (direct)
Simpson.James@epa.gov

CONFIDENTIAL: This transmission may contain deliberative, attorney-client, attorney work product or otherwise privileged material. Do not release under FOIA without appropriate review. If this message was sent to you in error, you are instructed to delete this message from your machine and all storage media whether electronic or hard copy.

Please consider the environment before printing this email.

Message

From: Villatora, Liliana [Villatora.Liliana@epa.gov]
Sent: 9/12/2019 7:18:10 PM
To: Cardile, Joseph [Cardile.Joseph@epa.gov]; Ritz, Phillip [Ritz.Phillip@epa.gov]; LaVigna, Gaetano [LaVigna.Gaetano@epa.gov]
CC: Buettner, Robert [Buettner.Robert@epa.gov]; Patel, Harish [Patel.Harish@epa.gov]
Subject: Ex. 5 DP/AC/AWP

Ex. 5 DP/AC/AWP

From: Cardile, Joseph
Sent: Thursday, September 12, 2019 3:14 PM
To: Ritz, Phillip <Ritz.Phillip@epa.gov>; LaVigna, Gaetano <LaVigna.Gaetano@epa.gov>; Villatora, Liliana <Villatora.Liliana@epa.gov>
Cc: Buettner, Robert <Buettner.Robert@epa.gov>; Patel, Harish <Patel.Harish@epa.gov>
Subject: Ex. 5 DP/AC/AWP

Ex. 5 DP/AC/AWP

From: Ritz, Phillip <Ritz.Phillip@epa.gov>
Sent: Thursday, September 12, 2019 1:16 PM
To: LaVigna, Gaetano <LaVigna.Gaetano@epa.gov>; Villatora, Liliana <Villatora.Liliana@epa.gov>; Cardile, Joseph <Cardile.Joseph@epa.gov>
Cc: Buettner, Robert <Buettner.Robert@epa.gov>
Subject: Ex. 5 DP/AC/AWP

Ex. 5 DP/AC/AWP

CONFIDENTIAL: This transmission may contain deliberative and/or enforcement confidential, attorney-client, or otherwise privileged material. Do not release under FOIA without appropriate review. If you have received this message in error, you are asked to notify the sender and to delete this message.

From: LaVigna, Gaetano <LaVigna.Gaetano@epa.gov>
Sent: Thursday, September 12, 2019 1:08 PM
To: Villatora, Liliana <Villatora.Liliana@epa.gov>; Cardile, Joseph <Cardile.Joseph@epa.gov>; Ritz, Phillip <Ritz.Phillip@epa.gov>
Cc: Buettner, Robert <Buettner.Robert@epa.gov>
Subject: Ex. 5 DP/AC/AWP

Ex. 5 DP/AC/AWP

Gaetano La Vigna, Chief
Stationary Source Compliance Section
Air Compliance Branch
U.S. EPA Region 2
290 Broadway, 21st Floor
New York, New York 10007-1866
Phone (212) 637-4069
Email LaVigna.Gaetano@epa.gov

CONFIDENTIAL: This transmission may contain deliberative and/or enforcement confidential, attorney-client, or otherwise privileged material. Do not release under FOIA without appropriate review. If you have received this message in error, you are asked to notify the sender and to delete this message.

From: Villatora, Liliana <Villatora.Liliana@epa.gov>
Sent: Thursday, September 12, 2019 12:41 PM
To: Cardile, Joseph <Cardile.Joseph@epa.gov>; Ritz, Phillip <Ritz.Phillip@epa.gov>; LaVigna, Gaetano <LaVigna.Gaetano@epa.gov>
Cc: Buettner, Robert <Buettner.Robert@epa.gov>
Subject: Ex. 5 DP/AC/AWP

Ex. 5 DP/AC/AWP

From: Makepeace, Caroline
Sent: Thursday, September 12, 2019 12:39 PM
To: Villatora, Liliana <Villatora.Liliana@epa.gov>; Rae, Sarah <Rae.Sarah@epa.gov>
Cc: Denton, Loren <Denton.Loren@epa.gov>
Subject: Ex. 5 DP/AC/AWP

Hi Ladies,

Ex. 5 DP/AC/AWP

Thanks!!!

Caroline Makepeace
Senior Counsel

Office of Civil Enforcement
US Environmental Protection Agency
202-564-6012

This may contain enforcement confidential or privileged material. Do not release without appropriate review. If you have received this message in error, please inform the sender, and promptly delete.

Message

From: Ritz, Phillip [Ritz.Phillip@epa.gov]
Sent: 7/10/2018 3:01:12 PM
To: Buettner, Robert [Buettner.Robert@epa.gov]; Cardile, Joseph [Cardile.Joseph@epa.gov]
CC: LaVigna, Gaetano [LaVigna.Gaetano@epa.gov]
Subject: Ex. 5 AC/AWP

Ex. 5 AC/AWP

From: Buettner, Robert
Sent: Tuesday, July 10, 2018 10:44 AM
To: Ritz, Phillip <Ritz.Phillip@epa.gov>; Cardile, Joseph <Cardile.Joseph@epa.gov>
Cc: LaVigna, Gaetano <LaVigna.Gaetano@epa.gov>
Subject: Ex. 5 AC/AWP

Ex. 5 AC/AWP

Robert Buettner
Chief, Air Compliance Branch

US EPA Region 2 DECA/ACB
290 Broadway, 21st Floor
New York NY 10007

buettner.robert@epa.gov
(212) 637 5031

CONFIDENTIAL: This transmission may contain deliberative and/or enforcement confidential, attorney-client, or otherwise privileged material. Do not release under FOIA without appropriate review. If you have received this message in error, you are asked to notify the sender and to delete this message.

From: Villatora, Liliana
Sent: Tuesday, July 10, 2018 10:33 AM
To: Urdaz, Damaris <Urdaz.Damaris@epa.gov>; LaVigna, Gaetano <LaVigna.Gaetano@epa.gov>; Buettner, Robert <Buettner.Robert@epa.gov>
Subject: Ex. 5 AC/AWP

Ex. 5 AC/AWP

From: Urdaz, Damaris
Sent: Monday, July 2, 2018 9:28 AM
To: LaVigna, Gaetano <LaVigna.Gaetano@epa.gov>; Villatora, Liliana <Villatora.Liliana@epa.gov>
Subject: Ex. 5 AC/AWP

Guy/Lilianna:

Ex. 5 AC/AWP

Message

From: Urdaz, Damaris [Urdaz.Damaris@epa.gov]
Sent: 8/22/2019 3:28:49 PM
To: Cardile, Joseph [Cardile.Joseph@epa.gov]; Ritz, Phillip [Ritz.Phillip@epa.gov]; Villatora, Liliana [Villatora.Liliana@epa.gov]; LaVigna, Gaetano [LaVigna.Gaetano@epa.gov]
Subject: Brookhaven Update

Ex. 5 AC/DP

Appointment

From: Simpson, James [Simpson.James@epa.gov]
Sent: 5/31/2017 5:29:27 PM
To: Buettner, Robert [Buettner.Robert@epa.gov]; LaVigna, Gaetano [LaVigna.Gaetano@epa.gov]; Ritz, Phillip [Ritz.Phillip@epa.gov]; Cardile, Joseph [Cardile.Joseph@epa.gov]; Villatora, Liliana [Villatora.Liliana@epa.gov]

Subject: Brookhaven - Finalize Draft CD and SEP
Location: R2NY-Rm-2134A-15p.DECA/R2-NY

Start: 5/31/2017 7:00:00 PM
End: 5/31/2017 8:00:00 PM
Show Time As: Tentative

Hello all,

Ex. 5 AC/AWP

Regards,
Jay

Message

From: Patel, Harish [Patel.Harish@epa.gov]
Sent: 9/12/2019 6:00:16 PM
To: Ritz, Phillip [Ritz.Phillip@epa.gov]; Cardile, Joseph [Cardile.Joseph@epa.gov]
CC: LaVigna, Gaetano [LaVigna.Gaetano@epa.gov]; Buettner, Robert [Buettner.Robert@epa.gov]
Subject: FW: URGENT - for your review - Ex. 5 Attorney Client (AC)
Attachments: Brookhaven Summary 09 12 19.docx; Hattiesburg MS 09 12 19.docx

Importance: High

Phil/Joe –please review and get back to Liliana (if you have not done it yet).

Thanks,
Harish

From: Buettner, Robert <Buettner.Robert@epa.gov>
Sent: Thursday, September 12, 2019 12:57 PM
To: Patel, Harish <Patel.Harish@epa.gov>
Cc: Cardile, Joseph <Cardile.Joseph@epa.gov>
Subject: FW: URGENT - for your review - Brookhaven and Hattiesburg
Importance: High

Can you make sure this is responded to?

Robert Buettner
Chief, Air Compliance Branch

US EPA Region 2 DECA/ACB
290 Broadway, 21st Floor
New York NY 10007

buettner.robert@epa.gov
(212) 637 5031

CONFIDENTIAL: This transmission may contain deliberative and/or enforcement confidential, attorney-client, or otherwise privileged material. Do not release under FOIA without appropriate review. If you have received this message in error, you are asked to notify the sender and to delete this message.

From: Villatora, Liliana <Villatora.Liliana@epa.gov>
Sent: Thursday, September 12, 2019 12:41 PM
To: Cardile, Joseph <Cardile.Joseph@epa.gov>; Ritz, Phillip <Ritz.Phillip@epa.gov>; LaVigna, Gaetano <LaVigna.Gaetano@epa.gov>
Cc: Buettner, Robert <Buettner.Robert@epa.gov>
Subject: FW: URGENT - for your review - Brookhaven and Hattiesburg

Can I please get your immediate review on this? Ex. 5 AC/DP
Ex. 5 AC/DP Thanks.

From: Makepeace, Caroline
Sent: Thursday, September 12, 2019 12:39 PM
To: Villatora, Liliana <Villatora.Liliana@epa.gov>; Rae, Sarah <Rae.Sarah@epa.gov>

Cc: Denton, Loren <Denton.Loren@epa.gov>
Subject: URGENT - for your review - Brookhaven and Hattiesburg

Hi Ladies,

Ex. 5 AC/DP

Thanks!!!

Caroline Makepeace
Senior Counsel
Office of Civil Enforcement
US Environmental Protection Agency
202-564-6012

This may contain enforcement confidential or privileged material. Do not release without appropriate review. If you have received this message in error, please inform the sender, and promptly delete.

Message

From: Ritz, Phillip [Ritz.Phillip@epa.gov]
Sent: 5/24/2017 9:45:49 PM
To: Cardile, Joseph [Cardile.Joseph@epa.gov]
Subject: FW: SETTLEMENT CONFIDENTIAL - Town of Brookhaven and Wehran Energy Corp. - SEP
Attachments: Simpson Ltr.pdf

From: Simpson, James
Sent: Thursday, April 13, 2017 3:35 PM
To: Ritz, Phillip <Ritz.Phillip@epa.gov>; LaVigna, Gaetano <LaVigna.Gaetano@epa.gov>; Buettner, Robert <Buettner.Robert@epa.gov>
Cc: Villatora, Liliana <Villatora.Liliana@epa.gov>
Subject: FW: SETTLEMENT CONFIDENTIAL - Town of Brookhaven and Wehran Energy Corp. - SEP

Ex. 5 AC/AWP

Regards,
Jay

From: Robbins, Virginia [mailto:RobbinV@bsk.com]
Sent: Thursday, April 13, 2017 12:39 PM
To: Simpson, James <Simpson.James@epa.gov>
Cc: Beckmann, Diane (USANYE) <Diane.Beckmann@usdoj.gov>; Kevin Johnston <kjohnston@brookhavenny.gov>; Michael J. Cahill <MJC@GermanoCahill.com>; Tyson, Robert <TysonR@BSK.com>
Subject: SETTLEMENT CONFIDENTIAL - Town of Brookhaven and Wehran Energy Corp. - SEP

Dear Jay,
On behalf of the Town of Brookhaven and Wehran Energy, please find attached for USEPA's review and comment our letter dated today detailing the estimated costs and task schedule for the proposed Supplemental Environmental Project involving the installation of a solar energy conversion system by the Town.
I am available to discuss this letter at your convenience.
Best, Ginny

Virginia C. Robbins, Esq.
Environmental and Energy Practice Group
315.218.8182 Direct
315.218.8000 Alt
315.218.8100 Fax
315.569.4538 Cell
vrobbins@bsk.com
Bio

BOND SCHOENECK & KING ATTORNEYS
Commitment · Service · Value · Our Bond
One Lincoln Center, Syracuse, NY 13202-1355
This email is ONLY for the person(s) named in the message header. Unless otherwise indicated, it contains information that is confidential, privileged or exempt from disclosure under applicable law. If you have received it in error, please notify the sender of the error and delete the message.

Message

From: LaVigna, Gaetano [LaVigna.Gaetano@epa.gov]
Sent: 9/12/2019 5:07:36 PM
To: Villatora, Liliana [Villatora.Liliana@epa.gov]; Cardile, Joseph [Cardile.Joseph@epa.gov]; Ritz, Phillip [Ritz.Phillip@epa.gov]
CC: Buettner, Robert [Buettner.Robert@epa.gov]
Subject: Ex. 5 DP/AC/AWP
Attachments:

Ex. 5 DP/AC/AWP

Gaetano La Vigna, Chief
Stationary Source Compliance Section
Air Compliance Branch
U.S. EPA Region 2
290 Broadway, 21st Floor
New York, New York 10007-1866
Phone (212) 637-4069
Email LaVigna.Gaetano@epa.gov

CONFIDENTIAL: This transmission may contain deliberative and/or enforcement confidential, attorney-client, or otherwise privileged material. Do not release under FOIA without appropriate review. If you have received this message in error, you are asked to notify the sender and to delete this message.

From: Villatora, Liliana <Villatora.Liliana@epa.gov>
Sent: Thursday, September 12, 2019 12:41 PM
To: Cardile, Joseph <Cardile.Joseph@epa.gov>; Ritz, Phillip <Ritz.Phillip@epa.gov>; LaVigna, Gaetano <LaVigna.Gaetano@epa.gov>
Cc: Buettner, Robert <Buettner.Robert@epa.gov>
Subject: Ex. 5 DP/AC/AWP

Ex. 5 DP/AC/AWP

From: Makepeace, Caroline
Sent: Thursday, September 12, 2019 12:39 PM
To: Villatora, Liliana <Villatora.Liliana@epa.gov>; Rae, Sarah <Rae.Sarah@epa.gov>
Cc: Denton, Loren <Denton.Loren@epa.gov>
Subject: Ex. 5 DP/AC/AWP

Hi Ladies,

Ex. 5 DP/AC/AWP

Thanks!!!

Caroline Makepeace
Senior Counsel
Office of Civil Enforcement
US Environmental Protection Agency
202-564-6012

This may contain enforcement confidential or privileged material. Do not release without appropriate review. If you have received this message in error, please inform the sender, and promptly delete.

Message

From: Urdaz, Damaris [Urdaz.Damaris@epa.gov]
Sent: 2/2/2018 1:21:30 PM
To: Cardile, Joseph [Cardile.Joseph@epa.gov]
Subject: RE: SETTLEMENT CONFIDENTIAL - Town of Brookhaven and Wehran Energy Corp. - SEP

Joseph—I work from home and my day ends at 3:30 but I don't want to delay the call.

Can you please provide a call-in number?

Thanks.

From: Cardile, Joseph
Sent: Thursday, February 01, 2018 6:18 PM
To: Makepeace, Caroline <Makepeace.Caroline@epa.gov>
Cc: Jonesi, Gary <Jonesi.Gary@epa.gov>; Buettner, Robert <Buettner.Robert@epa.gov>; Villatora, Liliana <Villatora.Liliana@epa.gov>; Urdaz, Damaris <Urdaz.Damaris@epa.gov>; Ritz, Phillip <Ritz.Phillip@epa.gov>
Subject: FW: SETTLEMENT CONFIDENTIAL - Town of Brookhaven and Wehran Energy Corp. - SEP

Ex. 5 AC/AWP

Thx
Joe

Joseph Cardile, Environmental Engineer
Stationary Source Compliance Section
Air Compliance Branch
U.S. EPA, Region 2
290 Broadway, 21st Floor
New York, New York 10007-1866
Phone (212) 637-4054
Email: Cardile.Joseph@epa.gov

CONFIDENTIAL: This transmission may contain deliberative and/or enforcement confidential, attorney-client, or otherwise privileged material. Do not release under FOIA without appropriate review. If you have received this message in error, you are asked to notify the sender and to delete this message.

From: Ritz, Phillip
Sent: Thursday, February 01, 2018 6:14 PM
To: Cardile, Joseph <Cardile.Joseph@epa.gov>
Subject: FW: SETTLEMENT CONFIDENTIAL - Town of Brookhaven and Wehran Energy Corp. - SEP

From: Simpson, James
Sent: Thursday, April 13, 2017 3:35 PM
To: Ritz, Phillip <Ritz.Phillip@epa.gov>; LaVigna, Gaetano <LaVigna.Gaetano@epa.gov>; Buettner, Robert <Buettner.Robert@epa.gov>
Cc: Villatora, Liliana <Villatora.Liliana@epa.gov>
Subject: FW: SETTLEMENT CONFIDENTIAL - Town of Brookhaven and Wehran Energy Corp. - SEP

Ex. 5 AC/AWP

Regards,
Jay

From: Robbins, Virginia [mailto:RobbinV@bsk.com]
Sent: Thursday, April 13, 2017 12:39 PM
To: Simpson, James <Simpson.James@epa.gov>
Cc: Beckmann, Diane (USANYE) <Diane.Beckmann@usdoj.gov>; Kevin Johnston <kjohnston@brookhavenny.gov>; Michael J. Cahill <MJC@GermanoCahill.com>; Tyson, Robert <TysonR@BSK.com>
Subject: SETTLEMENT CONFIDENTIAL - Town of Brookhaven and Wehran Energy Corp. - SEP

Dear Jay,
On behalf of the Town of Brookhaven and Wehran Energy, please find attached for USEPA's review and comment our letter dated today detailing the estimated costs and task schedule for the proposed Supplemental Environmental Project involving the installation of a solar energy conversion system by the Town.
I am available to discuss this letter at your convenience.
Best, Ginny

Virginia C. Robbins, Esq.
Environmental and Energy Practice Group
315.218.8182 Direct
315.218.8000 Alt
315.218.8100 Fax
315.569.4538 Cell
vrobbins@bsk.com
Bio

BOND SCHOENECK & KING ATTORNEYS
Commitment • Service • Value • Our Bond
One Lincoln Center, Syracuse, NY 13202-1355
This email is ONLY for the person(s) named in the message header. Unless otherwise indicated, it contains information that is confidential, privileged or exempt from disclosure under applicable law. If you have received it in error, please notify the sender of the error and delete the message.

Message

From: Leong, Denise [Leong.Denise@epa.gov]
Sent: 11/14/2018 10:14:39 PM
To: Villatora, Liliana [Villatora.Liliana@epa.gov]; Buettner, Robert [Buettner.Robert@epa.gov]; LaVigna, Gaetano [LaVigna.Gaetano@epa.gov]; Cardile, Joseph [Cardile.Joseph@epa.gov]; Kan, Richard [Kan.Richard@epa.gov]
Subject: FW: SEP policy "waiver"

Ex. 5 Attorney Client (AC)

Thanks, Denise

From: Makepeace, Caroline
Sent: Wednesday, November 14, 2018 5:09 PM
To: Leong, Denise <Leong.Denise@epa.gov>
Subject: Re: SEP policy "waiver"

Hi Denise,
I'm actually out sick today, and I guess the out of office message didn't "take" on my phone.
Diverging from the policy does require a waiver from the OECA AA. Is anyone from AED here on the case? If so, easy way is to work with AED to raise the request through Rosemarie Kelley to Susan Bodine. I'm happy to help in any way. I think it could be done with a short memo, or even email, that explains why a lower penalty would be warranted in this particular case, probably addressing the discussion of minimum penalty amounts (and why we have a minimum penalty) in the SEP Policy.
I'm going to be in tomorrow I hope — and maybe it makes sense to talk this through. Understanding the whole situation will probably help me advise you.

Sent from my iPhone

On Nov 14, 2018, at 4:45 PM, Leong, Denise <Leong.Denise@epa.gov> wrote:

> Hi Caroline,
>
> I left a voice message earlier today but I thought I would follow up with an email. We have a municipality inquiring whether it is possible, in a SEP context, to obtain a "waiver" to reduce the required minimum cash penalty of economic benefit plus 10% of the gravity. Is it possible and if so, what are the steps that need to be taken to request a "waiver" for the cash penalty minimum? Let me know if you have any questions.
>
> Thanks, Denise
>
> Denise Leong
> U.S. Environmental Protection Agency, Region 2
> Office of Regional Counsel, Air Branch
> 290 Broadway, 16th Floor
> New York, NY 10007
> Phone: (212) 637-3214
> Fax: (212) 637-3199

Note: This transmission may contain confidential communications, attorney work product, enforcement sensitive, attorney-client and/or other privileged materials. Do not release under FOIA without appropriate review. If this message was sent to you in error, you must delete it and not print, copy re-transmit, disseminate, or otherwise use the information.

Message

From: Villatora, Liliana [Villatora.Liliana@epa.gov]
Sent: 9/12/2019 4:41:14 PM
To: Cardile, Joseph [Cardile.Joseph@epa.gov]; Ritz, Phillip [Ritz.Phillip@epa.gov]; LaVigna, Gaetano [LaVigna.Gaetano@epa.gov]
CC: Buettner, Robert [Buettner.Robert@epa.gov]
Subject: Ex. 5 AC/AWP
Attachments:

Ex. 5 AC/AWP

From: Makepeace, Caroline
Sent: Thursday, September 12, 2019 12:39 PM
To: Villatora, Liliana <Villatora.Liliana@epa.gov>; Rae, Sarah <Rae.Sarah@epa.gov>
Cc: Denton, Loren <Denton.Loren@epa.gov>
Subject: Ex. 5 AC/AWP

Hi Ladies,

Ex. 5 AC/AWP

Thanks!!!

Caroline Makepeace
Senior Counsel
Office of Civil Enforcement
US Environmental Protection Agency
202-564-6012

This may contain enforcement confidential or privileged material. Do not release without appropriate review. If you have received this message in error, please inform the sender, and promptly delete.

Message

From: Makepeace, Caroline [Makepeace.Caroline@epa.gov]
Sent: 2/1/2018 11:49:14 PM
To: Cardile, Joseph [Cardile.Joseph@epa.gov]
CC: Jonesi, Gary [Jonesi.Gary@epa.gov]; Buettner, Robert [Buettner.Robert@epa.gov]; Villatora, Liliana [Villatora.Liliana@epa.gov]; Urdaz, Damaris [Urdaz.Damaris@epa.gov]; Ritz, Phillip [Ritz.Phillip@epa.gov]
Subject: Re: SETTLEMENT CONFIDENTIAL - Town of Brookhaven and Wehran Energy Corp. - SEP

Thanks! Talk to you all soon!

Sent from my iPhone

> On Feb 1, 2018, at 6:18 PM, Cardile, Joseph <Cardile.Joseph@epa.gov> wrote:

Ex. 5 AC

>
> Thx
> Joe
>
> Joseph Cardile, Environmental Engineer
> Stationary Source Compliance Section
> Air Compliance Branch
> U.S. EPA, Region 2
> 290 Broadway, 21st Floor
> New York, New York 10007-1866
> Phone (212) 637-4054
> Email: Cardile.Joseph@epa.gov<mailto:Cardile.Joseph@epa.gov>
>
> CONFIDENTIAL: This transmission may contain deliberative and/or enforcement confidential, attorney-client, or otherwise privileged material. Do not release under FOIA without appropriate review. If you have received this message in error, you are asked to notify the sender and to delete this message.
> From: Ritz, Phillip
> Sent: Thursday, February 01, 2018 6:14 PM
> To: Cardile, Joseph <Cardile.Joseph@epa.gov>
> Subject: FW: SETTLEMENT CONFIDENTIAL - Town of Brookhaven and Wehran Energy Corp. - SEP
>
> From: Simpson, James
> Sent: Thursday, April 13, 2017 3:35 PM
> To: Ritz, Phillip <Ritz.Phillip@epa.gov<mailto:Ritz.Phillip@epa.gov>>; LaVigna, Gaetano <LaVigna.Gaetano@epa.gov<mailto:LaVigna.Gaetano@epa.gov>>; Buettner, Robert <Buettner.Robert@epa.gov<mailto:Buettner.Robert@epa.gov>>
> Cc: Villatora, Liliana <Villatora.Liliana@epa.gov<mailto:Villatora.Liliana@epa.gov>>
> Subject: FW: SETTLEMENT CONFIDENTIAL - Town of Brookhaven and Wehran Energy Corp. - SEP
>
> FYI, Attached is a letter from Brookhaven regarding the SEP.
>
> Regards,
> Jay
>
> From: Robbins, Virginia [mailto:RobbinV@bsk.com]
> Sent: Thursday, April 13, 2017 12:39 PM
> To: Simpson, James <Simpson.James@epa.gov<mailto:Simpson.James@epa.gov>>
> Cc: Beckmann, Diane (USANYE) <Diane.Beckmann@usdoj.gov<mailto:Diane.Beckmann@usdoj.gov>>; Kevin Johnston <kjohnston@brookhavenny.gov<mailto:kjohnston@brookhavenny.gov>>; Michael J. Cahill <MJC@GermanoCahill.com<mailto:MJC@GermanoCahill.com>>; Tyson, Robert <TysonR@BSK.com<mailto:TysonR@BSK.com>>
> Subject: SETTLEMENT CONFIDENTIAL - Town of Brookhaven and Wehran Energy Corp. - SEP
>
> Dear Jay,
> On behalf of the Town of Brookhaven and Wehran Energy, please find attached for USEPA's review and comment our letter dated today detailing the estimated costs and task schedule for the proposed Supplemental Environmental Project involving the installation of a solar energy conversion system by the Town.
> I am available to discuss this letter at your convenience.
> Best, Ginny
>
> Virginia C. Robbins, Esq.
> Environmental and Energy Practice Group
> 315.218.8182 Direct
> 315.218.8000 Alt

> 315.218.8100 Fax
> 315.569.4538 Cell
> vrobbins@bsk.com<mailto:vrobbins@bsk.com>
> Bio<https://www.bsk.com/attorneys/bio.cfm?ID=1741>
> [https://www.bsk.com/BondSignature/Bond.gif]<https://www.bsk.com/>
> One Lincoln Center, Syracuse, NY 13202-1355
> This email is ONLY for the person(s) named in the message header. Unless otherwise indicated, it contains information that is confidential, privileged or exempt from disclosure under applicable law. If you have received it in error, please notify the sender of the error and delete the message.
>
> <Simpson Ltr.pdf>
> <image001.png>

Message

From: Ritz, Phillip [Ritz.Phillip@epa.gov]
Sent: 1/8/2018 3:51:47 PM
To: Cardile, Joseph [Cardile.Joseph@epa.gov]
Subject: FW: SETTLEMENT CONFIDENTIAL - Town of Brookhaven and Wehran Energy Corp. - SEP
Attachments: Simpson Ltr.pdf

From: Simpson, James
Sent: Thursday, April 13, 2017 3:35 PM
To: Ritz, Phillip <Ritz.Phillip@epa.gov>; LaVigna, Gaetano <LaVigna.Gaetano@epa.gov>; Buettner, Robert <Buettner.Robert@epa.gov>
Cc: Villatora, Liliana <Villatora.Liliana@epa.gov>
Subject: FW: SETTLEMENT CONFIDENTIAL - Town of Brookhaven and Wehran Energy Corp. - SEP

FYI, Attached is a letter from Brookhaven regarding the SEP.

Regards,
Jay

From: Robbins, Virginia [mailto:RobbinV@bsk.com]
Sent: Thursday, April 13, 2017 12:39 PM
To: Simpson, James <Simpson.James@epa.gov>
Cc: Beckmann, Diane (USANYE) <Diane.Beckmann@usdoj.gov>; Kevin Johnston <kjohnston@brookhavenny.gov>; Michael J. Cahill <MJC@GermanoCahill.com>; Tyson, Robert <TysonR@BSK.com>
Subject: SETTLEMENT CONFIDENTIAL - Town of Brookhaven and Wehran Energy Corp. - SEP

Dear Jay,
On behalf of the Town of Brookhaven and Wehran Energy, please find attached for USEPA's review and comment our letter dated today detailing the estimated costs and task schedule for the proposed Supplemental Environmental Project involving the installation of a solar energy conversion system by the Town.
I am available to discuss this letter at your convenience.
Best, Ginny

Virginia C. Robbins, Esq.
Environmental and Energy Practice Group
315.218.8182 Direct
315.218.8000 Alt
315.218.8100 Fax
315.569.4538 Cell
vrobbins@bsk.com
Bio

BOND SCHOENECK & KING ATTORNEYS
Commitment · Service · Value · Our Bond
One Lincoln Center, Syracuse, NY 13202-1355
This email is ONLY for the person(s) named in the message header. Unless otherwise indicated, it contains information that is confidential, privileged or exempt from disclosure under applicable law. If you have received it in error, please notify the sender of the error and delete the message.

Message

From: Buettner, Robert [Buettner.Robert@epa.gov]
Sent: 11/14/2018 10:10:07 PM
To: Leong, Denise [Leong.Denise@epa.gov]; Villatora, Liliana [Villatora.Liliana@epa.gov]; LaVigna, Gaetano [LaVigna.Gaetano@epa.gov]
CC: Kan, Richard [Kan.Richard@epa.gov]; Cardile, Joseph [Cardile.Joseph@epa.gov]
Subject: RE: questions about EPA's SEP Policy - in BLUE

Ex. 5 Attorney Client (AC)

Robert Buettner
Chief, Air Compliance Branch

US EPA Region 2 DECA/ACB
290 Broadway, 21st Floor
New York NY 10007

buettner.robert@epa.gov
(212) 637 5031

CONFIDENTIAL: This transmission may contain deliberative and/or enforcement confidential, attorney-client, or otherwise privileged material. Do not release under FOIA without appropriate review. If you have received this message in error, you are asked to notify the sender and to delete this message.

From: Leong, Denise
Sent: Wednesday, November 14, 2018 5:00 PM
To: Villatora, Liliana <Villatora.Liliana@epa.gov>; LaVigna, Gaetano <LaVigna.Gaetano@epa.gov>
Cc: Buettner, Robert <Buettner.Robert@epa.gov>; Kan, Richard <Kan.Richard@epa.gov>; Cardile, Joseph <Cardile.Joseph@epa.gov>
Subject: RE: questions about EPA's SEP Policy - in BLUE
Importance: High

Ex. 5 Attorney Client (AC)

-----Original Message-----
From: Cho, James (USANYE) <James.Cho@usdoj.gov>
Sent: Tuesday, November 13, 2018 11:47 AM
To: Leong, Denise <Leong.Denise@epa.gov>
Cc: LaVigna, Gaetano <LaVigna.Gaetano@epa.gov>; Villatora, Liliana <Villatora.Liliana@epa.gov>
Subject: Fwd: questions about EPA's SEP Policy

See updated email below.

James R. Cho
Assistant U.S. Attorney
U.S. Attorney's Office
Eastern District of New York
271-A Cadman Plaza East, 7th floor<x-apple-data-detectors://9/0>

Brooklyn, New York 11201<x-apple-data-detectors://9/0>
718-254-6519<tel:718-254-6519> (direct)
718-254-7483<tel:718-254-7483> (fax)
james.cho@usdoj.gov<mailto:james.cho@usdoj.gov>

Begin forwarded message:

From: Eli Eilbott <EDE@dwgp.com<mailto:EDE@dwgp.com>>
Date: November 13, 2018 at 11:33:30 AM EST
To: "James.Cho@usdoj.gov<mailto:James.Cho@usdoj.gov>" <James.Cho@usdoj.gov<mailto:James.Cho@usdoj.gov>>
Subject: RE: questions about EPA's SEP Policy

PRIVILEGED AND CONFIDENTIAL
FOR SETTLEMENT PURPOSES ONLY
NOT ADMISSIBLE PURSUANT TO F.R.E. 408

Actually, re-reading the SEP Policy language quoted in my question no 1 below, I believe my figure of 7A is not correct, since I added 10% of the economic benefit component when it should be 10% of the gravity component. I believe that translates into approximately 7A for the economic benefit component, plus 10% of the 5 AWP ACP DPP gravity component). So, a SEP would seem to make even less sense, assuming the foregoing is correct.

5 AWP ACP DPP

From: Eli Eilbott
Sent: Tuesday, November 13, 2018 11:21 AM
To: James.Cho@usdoj.gov<mailto:James.Cho@usdoj.gov>
Subject: questions about EPA's SEP Policy
Importance: High

PRIVILEGED AND CONFIDENTIAL
FOR SETTLEMENT PURPOSES ONLY
NOT ADMISSIBLE PURSUANT TO F.R.E. 408

Mr. Cho,

Thanks again for this past Friday's meeting with the Village of Rockville Centre. Since that time we've been reviewing EPA's SEP policy, which I believe was most recently updated in March 2015, according to this info: https://www.epa.gov/sites/production/files/2015-04/documents/sepupdatedpolicy15.pdf

The Village had a few questions for your team regarding how a potential SEP implemented by the Village as part of a settlement of the Feb. 2012 NOV might work. Because Mr. Andreas will be meeting with the Village Trustees this Thursday to discuss this matter and because EPA and the Village are scheduled to meet again on Nov. 27, I would greatly appreciate it if you/EPA could clarify the following by COB tomorrow if at all possible:

1. As I read Section IX.B.1 of the Policy, at page 21, where a settlement includes a SEP, the amount of the penalty must be equal to the greater of (a) the economic benefit of noncompliance plus ten percent of the gravity component, or (b) twenty-five percent of the gravity component. 7A assigned $72,000 for the economic benefit component, and $159,000 for the gravity component. If I heard him

7A

5 DPP ACP AWP

2. At the top of p.24 of the Policy, in Section IX.C, it states that "The amount of penalty mitigation given for a SEP should be equivalent to a percentage of the estimated cost to implement the SEP and should not exceed eighty percent (80%) of that estimated cost." Further down on that same page, however, it provides that "For defendants that are . . . government agencies or entities . . . the penalty mitigation amount may be set as high as one hundred percent (100%) of the estimated SEP cost, if the defendant can demonstrate the project is of outstanding quality." Footnote 33 on that page, in turn, states "Outstanding quality may be based on how well a SEP meets and exceeds one or more of the evaluation criteria described in Section VIII, as well as on relevant case-specific factors." To help the Village better understand the possibility that a potential SEP it might implement would earn a 100% penalty mitigation, could EPA provide any more concrete information on what it might consider a SEP of "outstanding quality"? I realize the Policy states this is a case-by-case determination, but any additional info EPA could provide on this point would be helpful.

5 DPP ACP AWP

3. In Section X at page 25 of the Policy, it states that certain project-related costs must be excluded from the portion of the SEP eligible for penalty mitigation. The Policy states that "Examples of costs to consider that are generally not appropriate for inclusion include: overhead; additional employee time and salary; administrative expenses; most legal fees; and contractor oversight." I'm struggling to understand those examples, since they seem quite broad. If Village employees implement a SEP within the Village boundaries, would the Village's cost for that employee labor be considered "additional" time and salary and thus completely excluded from the mitigation eligibility? Would the only mitigation-eligible costs of such a project be parts/materials/equipment? And can EPA shed light on how broad or narrow the definition of "administration expenses" is in that portion of the Policy?

5 DPP ACP AWP

4. Section XII.A.2 at page 36 of the Policy seems to provide EPA with discretion in a particular settlement to exempt the proposed SEP from one or more requirements of the Policy. There it states as follows: "In all cases including a SEP which may not fully comply with the provisions of this Policy (e.g., the proposed settlement penalty is less than the minimum required penalty) . . . the settlement and the SEP must be approved by the Assistant Administrator for OECA." If I'm reading that catch-all exception correctly, EPA would have the discretion, for example, to accept a penalty payment by the Village at a level lower than what would seem otherwise required by the section of the Policy that I quote in my question 1 above. At what point in the SEP review process would EPA make such a decision?

EPA does not have immediate discretion to reduce the amount of cash paid towards the penalty to the government. EPA has already obtained a waiver of the Penalty Policy to reduce economic benefit the maximum amount from $722,800 to $72,280. Usually additional waivers are not sought and there is no certainty that a waiver would be granted.

Lastly, a question not directed to the SEP Policy. Specifically, to what extent, if any, would EPA allow the Village to pay the penalty portion of a settlement in installments (e.g., payment of one-quarter the total penalty each year for four consecutive years) as opposed to requiring the Village to make a one-time upfront payment of the entire penalty?

5 DPP ACP AWP

Thank you in advance for your assistance with this. Again, given the meeting with the Trustees this Thursday, we'd greatly appreciate receiving EPA's responses to the foregoing by COB tomorrow if possible.

Eli

Eli D. Eilbott

[Description: Description: cid:YMHZYIOFYWWM.IMAGE_28.png]

1615 M Street NW | Suite 800 | Washington, DC 20036
(202) 467-6370 | ede@dwgp.com<mailto:ede@dwgp.com> www.dwgp.com<http://www.dwgp.com/>

This communication is from a law firm and may contain confidential and/or privileged information. If it has been sent to you in error, please contact the sender for instructions concerning return or destruction, and do not use or disclose the contents to others.

Denise Leong
U.S. Environmental Protection Agency, Region 2
Office of Regional Counsel, Air Branch
290 Broadway, 16th Floor
New York, NY 10007
Phone: (212) 637-3214
Fax: (212) 637-3199

Note: This transmission may contain confidential communications, attorney work product, enforcement sensitive, attorney-client and/or other privileged materials. Do not release under FOIA without appropriate review. If this message was sent to you in error, you must delete it and not print, copy re-transmit, disseminate, or otherwise use the information.

From: Leong, Denise
Sent: Wednesday, November 14, 2018 2:33 PM
To: Villatora, Liliana <Villatora.Liliana@epa.gov>; LaVigna, Gaetano <LaVigna.Gaetano@epa.gov>
Cc: Buettner, Robert <Buettner.Robert@epa.gov>; Kan, Richard <Kan.Richard@epa.gov>; Cardile, Joseph <Cardile.Joseph@epa.gov>
Subject: RE: questions about EPA's SEP Policy - in BLUE

Ex. 5 Attorney Client (AC)

Denise Leong
U.S. Environmental Protection Agency, Region 2

Office of Regional Counsel, Air Branch
290 Broadway, 16th Floor
New York, NY 10007
Phone: (212) 637-3214
Fax: (212) 637-3199

Note: This transmission may contain confidential communications, attorney work product, enforcement sensitive, attorney-client and/or other privileged materials. Do not release under FOIA without appropriate review. If this message was sent to you in error, you must delete it and not print, copy re-transmit, disseminate, or otherwise use the information.

From: Villatora, Liliana
Sent: Wednesday, November 14, 2018 2:25 PM
To: LaVigna, Gaetano <LaVigna.Gaetano@epa.gov>
Cc: Leong, Denise <Leong.Denise@epa.gov>; Buettner, Robert <Buettner.Robert@epa.gov>; Kan, Richard <Kan.Richard@epa.gov>; Cardile, Joseph <Cardile.Joseph@epa.gov>
Subject: RE: questions about EPA's SEP Policy - in BLUE

Guy,

Ex. 5 Attorney Client (AC)

Liliana

From: LaVigna, Gaetano
Sent: Wednesday, November 14, 2018 12:58 PM
To: Villatora, Liliana <Villatora.Liliana@epa.gov>
Cc: Leong, Denise <Leong.Denise@epa.gov>; Buettner, Robert <Buettner.Robert@epa.gov>; Kan, Richard <Kan.Richard@epa.gov>; Cardile, Joseph <Cardile.Joseph@epa.gov>
Subject: Re: questions about EPA's SEP Policy - in BLUE

Ex. 5 Attorney Client (AC)

Sent from my iPhone

On Nov 14, 2018, at 11:24 AM, Villatora, Liliana <Villatora.Liliana@epa.gov> wrote:

Ex. 5 Attorney Client (AC)

From: Leong, Denise
Sent: Wednesday, November 14, 2018 11:21 AM
To: Buettner, Robert <Buettner.Robert@epa.gov>; LaVigna, Gaetano <LaVigna.Gaetano@epa.gov>; Kan, Richard <Kan.Richard@epa.gov>; Cardile, Joseph <Cardile.Joseph@epa.gov>
Cc: Villatora, Liliana <Villatora.Liliana@epa.gov>
Subject: FWD: questions about EPA's SEP Policy - in BLUE

Ex. 5 Attorney Client (AC)

-----Original Message-----
From: Cho, James (USANYE) <James.Cho@usdoj.gov>
Sent: Tuesday, November 13, 2018 11:47 AM
To: Leong, Denise <Leong.Denise@epa.gov>
Cc: LaVigna, Gaetano <LaVigna.Gaetano@epa.gov>; Villatora, Liliana <Villatora.Liliana@epa.gov>
Subject: Fwd: questions about EPA's SEP Policy

See updated email below.

James R. Cho
Assistant U.S. Attorney
U.S. Attorney's Office
Eastern District of New York
271-A Cadman Plaza East, 7th floor<x-apple-data-detectors://9/0>
Brooklyn, New York 11201<x-apple-data-detectors://9/0>
718-254-6519<tel:718-254-6519> (direct)
718-254-7483<tel:718-254-7483> (fax)
james.cho@usdoj.gov<mailto:james.cho@usdoj.gov>

Begin forwarded message:

From: Eli Eilbott <EDE@dwgp.com<mailto:EDE@dwgp.com>>
Date: November 13, 2018 at 11:33:30 AM EST
To: "James.Cho@usdoj.gov<mailto:James.Cho@usdoj.gov>"
<James.Cho@usdoj.gov<mailto:James.Cho@usdoj.gov>>
Subject: RE: questions about EPA's SEP Policy

PRIVILEGED AND CONFIDENTIAL
FOR SETTLEMENT PURPOSES ONLY
NOT ADMISSIBLE PURSUANT TO F.R.E. 408

Actually, re-reading the SEP Policy language quoted in my question no 1 below, I believe my figure of 7A s not correct, since I added 10% of the economic benefit component when it should be 10% of the

gravity component. I believe that translates into approximately 7A for the economic benefit component, plus 10% of the $159K gravity component). So, a SEP would seem to make even less sense, assuming the foregoing is correct.

Ex. 5 Attorney Client (AC)

From: Eli Eilbott
Sent: Tuesday, November 13, 2018 11:21 AM
To: James.Cho@usdoj.gov<mailto:James.Cho@usdoj.gov>
Subject: questions about EPA's SEP Policy
Importance: High

PRIVILEGED AND CONFIDENTIAL
FOR SETTLEMENT PURPOSES ONLY
NOT ADMISSIBLE PURSUANT TO F.R.E. 408

Mr. Cho,

Thanks again for this past Friday's meeting with the Village of Rockville Centre. Since that time we've been reviewing EPA's SEP policy, which I believe was most recently updated in March 2015, according to this info: https://www.epa.gov/sites/production/files/2015-04/documents/sepupdatedpolicy15.pdf

The Village had a few questions for your team regarding how a potential SEP implemented by the Village as part of a settlement of the Feb. 2012 NOV might work. Because Mr. Andreas will be meeting with the Village Trustees this Thursday to discuss this matter and because EPA and the Village are scheduled to meet again on Nov. 27, I would greatly appreciate it if you/EPA could clarify the following by COB tomorrow if at all possible:

1. As I read Section IX.B.1 of the Policy, at page 21, where a settlement includes a SEP, the amount of the penalty must be equal to the greater of (a) the economic benefit of noncompliance plus ten percent of the gravity component, or (b) twenty-five percent of the gravity component. 7A

7A

Ex. 5 AC/AWP/DP

2. At the top of p.24 of the Policy, in Section IX.C, it states that "The amount of penalty mitigation given for a SEP should be equivalent to a percentage of the estimated cost to implement the SEP and should not exceed eighty percent (80%) of that estimated cost." Further down on that same page, however, it provides that "For defendants that are . . . government agencies or entities . . . the penalty

mitigation amount may be set as high as one hundred percent (100%) of the estimated SEP cost, if the defendant can demonstrate the project is of outstanding quality." Footnote 33 on that page, in turn, states "Outstanding quality may be based on how well a SEP meets and exceeds one or more of the evaluation criteria described in Section VIII, as well as on relevant case-specific factors." To help the Village better understand the possibility that a potential SEP it might implement would earn a 100% penalty mitigation, could EPA provide any more concrete information on what it might consider a SEP of "outstanding quality"? I realize the Policy states this is a case-by-case determination, but any additional info EPA could provide on this point would be helpful.

Ex. 5 AC/AWP/DP

3. In Section X at page 25 of the Policy, it states that certain project-related costs must be excluded from the portion of the SEP eligible for penalty mitigation. The Policy states that "Examples of costs to consider that are generally not appropriate for inclusion include: overhead; additional employee time and salary; administrative expenses; most legal fees; and contractor oversight." I'm struggling to understand those examples, since they seem quite broad. If Village employees implement a SEP within the Village boundaries, would the Village's cost for that employee labor be considered "additional" time and salary and thus completely excluded from the mitigation eligibility? Would the only mitigation-eligible costs of such a project be parts/materials/equipment? And can EPA shed light on how broad or narrow the definition of "administration expenses" is in that portion of the Policy?

Ex. 5 AC/AWP/DP

4. Section XII.A.2 at page 36 of the Policy seems to provide EPA with discretion in a particular settlement to exempt the proposed SEP from one or more requirements of the Policy. There it states as follows: "In all cases including a SEP which may not fully comply with the provisions of this Policy (e.g., the proposed settlement penalty is less than the minimum required penalty) . . . the settlement and the SEP must be approved by the Assistant Administrator for OECA." If I'm reading that catch-all exception correctly, EPA would have the discretion, for example, to accept a penalty payment by the Village at a level lower than what would seem otherwise required by the section of the Policy that I quote in my question 1 above. At what point in the SEP review process would EPA make such a decision?

Ex. 5 AC/AWP/DP

Lastly, a question not directed to the SEP Policy. Specifically, to what extent, if any, would EPA allow the Village to pay the penalty portion of a settlement in installments (e.g., payment of one-quarter the total penalty each year for four consecutive years) as opposed to requiring the Village to make a one-time upfront payment of the entire penalty?

Ex. 5 AC/AWP/DP

Thank you in advance for your assistance with this. Again, given the meeting with the Trustees this Thursday, we'd greatly appreciate receiving EPA's responses to the foregoing by COB tomorrow if possible.

Eli

Eli D. Eilbott

[Description: Description: cid:YMHZYIOFYWWM.IMAGE_28.png]

1615 M Street NW | Suite 800 | Washington, DC 20036
(202) 467-6370 | ede@dwgp.com<mailto:ede@dwgp.com> www.dwgp.com<http://www.dwgp.com/>

This communication is from a law firm and may contain confidential and/or privileged information. If it has been sent to you in error, please contact the sender for instructions concerning return or destruction, and do not use or disclose the contents to others.

Message

From: Urdaz, Damaris [Urdaz.Damaris@epa.gov]
Sent: 5/24/2018 5:33:54 PM
To: Villatora, Liliana [Villatora.Liliana@epa.gov]; LaVigna, Gaetano [LaVigna.Gaetano@epa.gov]; Buettner, Robert [Buettner.Robert@epa.gov]; Ritz, Phillip [Ritz.Phillip@epa.gov]; Cardile, Joseph [Cardile.Joseph@epa.gov]
Subject: FW: Brookhaven
Attachments: Brookhaven CJ draft May 2018.docx

Ex. 5 AC/AWP

From: Beckmann, Diane (USANYE) [mailto:Diane.Beckmann@usdoj.gov]
Sent: Thursday, May 24, 2018 12:45 PM
To: Urdaz, Damaris <Urdaz.Damaris@epa.gov>
Subject: RE: Brookhaven

HI Damaris—

Ex. 5 AC/AWP

From: Urdaz, Damaris <Urdaz.Damaris@epa.gov>
Sent: Wednesday, May 23, 2018 8:22 PM
To: Beckmann, Diane (USANYE) <DBeckmann@usa.doj.gov>
Subject: Brookhaven

Ex. 5 AC/AWP

Thanks!

Message

From: Jonesi, Gary [Jonesi.Gary@epa.gov]
Sent: 2/1/2018 11:42:47 PM
To: Cardile, Joseph [Cardile.Joseph@epa.gov]
CC: Makepeace, Caroline [Makepeace.Caroline@epa.gov]; Buettner, Robert [Buettner.Robert@epa.gov]; Villatora, Liliana [Villatora.Liliana@epa.gov]; Urdaz, Damaris [Urdaz.Damaris@epa.gov]; Ritz, Phillip [Ritz.Phillip@epa.gov]
Subject: Ex. 5 AC

Thanks Joe. Look forward to talking about this.

--Gary

Ex. 5 AC

Gary A. Jonesi
Office of Civil Enforcement
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W. (Rm. 4102-C)
Washington, D.C. 20004

202-564-4002 (direct)
703-304-6392 (cell)
jonesi.gary@epa.gov

On Feb 1, 2018, at 6:18 PM, Cardile, Joseph <Cardile.Joseph@epa.gov> wrote:

Ex. 5 AC

Thx
Joe

Joseph Cardile, Environmental Engineer
Stationary Source Compliance Section
Air Compliance Branch
U.S. EPA, Region 2
290 Broadway, 21st Floor
New York, New York 10007-1866
Phone (212) 637-4054
Email: Cardile.Joseph@epa.gov

CONFIDENTIAL: This transmission may contain deliberative and/or enforcement confidential, attorney-client, or otherwise privileged material. Do not release under FOIA without appropriate

review. If you have received this message in error, you are asked to notify the sender and to delete this message.

From: Ritz, Phillip
Sent: Thursday, February 01, 2018 6:14 PM
To: Cardile, Joseph <Cardile.Joseph@epa.gov>
Subject: Ex. 5 AC

From: Simpson, James
Sent: Thursday, April 13, 2017 3:35 PM
To: Ritz, Phillip <Ritz.Phillip@epa.gov>; LaVigna, Gaetano <LaVigna.Gaetano@epa.gov>; Buettner, Robert <Buettner.Robert@epa.gov>
Cc: Villatora, Liliana <Villatora.Liliana@epa.gov>
Subject: Ex. 5 AC

Ex. 5 AC

Regards,
Jay

From: Robbins, Virginia [mailto:RobbinV@bsk.com]
Sent: Thursday, April 13, 2017 12:39 PM
To: Simpson, James <Simpson.James@epa.gov>
Cc: Beckmann, Diane (USANYE) <Diane.Beckmann@usdoj.gov>; Kevin Johnston <kjohnston@brookhavenny.gov>; Michael J. Cahill <MJC@GermanoCahill.com>; Tyson, Robert <TysonR@BSK.com>
Subject: SETTLEMENT CONFIDENTIAL - Town of Brookhaven and Wehran Energy Corp. - SEP

Dear Jay,
On behalf of the Town of Brookhaven and Wehran Energy, please find attached for USEPA's review and comment our letter dated today detailing the estimated costs and task schedule for the proposed Supplemental Environmental Project involving the installation of a solar energy conversion system by the Town.
I am available to discuss this letter at your convenience.
Best, Ginny

Virginia C. Robbins, Esq.
Environmental and Energy Practice Group
315.218.8182 Direct
315.218.8000 Alt
315.218.8100 Fax
315.569.4538 Cell
vrobbins@bsk.com
Bio
<image001.png>
One Lincoln Center, Syracuse, NY 13202-1355
This email is ONLY for the person(s) named in the message header. Unless otherwise indicated, it contains information that is confidential, privileged or exempt from disclosure under applicable law. If you have received it in error, please notify the sender of the error and delete the message.

<Simpson Ltr.pdf>

Message

From: Leong, Denise [Leong.Denise@epa.gov]
Sent: 11/14/2018 9:59:52 PM
To: Villatora, Liliana [Villatora.Liliana@epa.gov]; LaVigna, Gaetano [LaVigna.Gaetano@epa.gov]
CC: Buettner, Robert [Buettner.Robert@epa.gov]; Kan, Richard [Kan.Richard@epa.gov]; Cardile, Joseph [Cardile.Joseph@epa.gov]
Subject: RE: questions about EPA's SEP Policy - in BLUE
Attachments: Rockville SEP info_DL.docx

Importance: High

Ex. 5 Attorney Client (AC)

-----Original Message-----
From: Cho, James (USANYE) <James.Cho@usdoj.gov>
Sent: Tuesday, November 13, 2018 11:47 AM
To: Leong, Denise <Leong.Denise@epa.gov>
Cc: LaVigna, Gaetano <LaVigna.Gaetano@epa.gov>; Villatora, Liliana <Villatora.Liliana@epa.gov>
Subject: Fwd: questions about EPA's SEP Policy

See updated email below.

James R. Cho
Assistant U.S. Attorney
U.S. Attorney's Office
Eastern District of New York
271-A Cadman Plaza East, 7th floor<x-apple-data-detectors://9/0>
Brooklyn, New York 11201<x-apple-data-detectors://9/0>
718-254-6519<tel:718-254-6519> (direct)
718-254-7483<tel:718-254-7483> (fax)
james.cho@usdoj.gov<mailto:james.cho@usdoj.gov>

Begin forwarded message:

From: Eli Eilbott <EDE@dwgp.com<mailto:EDE@dwgp.com>>
Date: November 13, 2018 at 11:33:30 AM EST
To: "James.Cho@usdoj.gov<mailto:James.Cho@usdoj.gov>" <James.Cho@usdoj.gov<mailto:James.Cho@usdoj.gov>>
Subject: RE: questions about EPA's SEP Policy

PRIVILEGED AND CONFIDENTIAL
FOR SETTLEMENT PURPOSES ONLY
NOT ADMISSIBLE PURSUANT TO F.R.E. 408

Actually, re-reading the SEP Policy language quoted in my question no 1 below, I believe my figure of 7A is not correct, since I added 10% of the economic benefit component when it should be 10% of the gravity component. I believe that translates into approximately 7A for the economic benefit component, plus 10% of the $159K gravity component). So, a SEP would seem to make even less sense, assuming the foregoing is correct.

Ex. 5 Attorney Client (AC)

Ex. 5 Attorney Client (AC)

From: Eli Eilbott
Sent: Tuesday, November 13, 2018 11:21 AM
To: James.Cho@usdoj.gov<mailto:James.Cho@usdoj.gov>
Subject: questions about EPA's SEP Policy
Importance: High

PRIVILEGED AND CONFIDENTIAL
FOR SETTLEMENT PURPOSES ONLY
NOT ADMISSIBLE PURSUANT TO F.R.E. 408

Mr. Cho,

Thanks again for this past Friday's meeting with the Village of Rockville Centre. Since that time we've been reviewing EPA's SEP policy, which I believe was most recently updated in March 2015, according to this info: https://www.epa.gov/sites/production/files/2015-04/documents/sepupdatedpolicy15.pdf

The Village had a few questions for your team regarding how a potential SEP implemented by the Village as part of a settlement of the Feb. 2012 NOV might work. Because Mr. Andreas will be meeting with the Village Trustees this Thursday to discuss this matter and because EPA and the Village are scheduled to meet again on Nov. 27, I would greatly appreciate it if you/EPA could clarify the following by COB tomorrow if at all possible:

1. As I read Section IX.B.1 of the Policy, at page 21, where a settlement includes a SEP, the amount of the penalty must be equal to the greater of (a) the economic benefit of noncompliance plus ten percent of the gravity component, or (b) twenty-five percent of the gravity component. 7A

7A

Ex. 5 AC/AWP/DP

2. At the top of p.24 of the Policy, in Section IX.C, it states that "The amount of penalty mitigation given for a SEP should be equivalent to a percentage of the estimated cost to implement the SEP and should not exceed eighty percent (80%) of that estimated cost." Further down on that same page, however, it provides that "For defendants that are . . . government agencies or entities . . . the penalty mitigation amount may be set as high as one hundred percent (100%) of the estimated SEP cost, if the defendant can demonstrate the project is of outstanding quality." Footnote 33 on that page, in turn, states "Outstanding quality may be based on how well a SEP meets and exceeds one or more of the evaluation criteria described in Section VIII, as well as on relevant case-specific factors." To help the Village better understand the possibility that a potential SEP it might implement would earn a 100% penalty mitigation, could EPA provide any more concrete information on what it might consider a SEP of "outstanding quality"? I realize the Policy states this is a case-by-case determination, but any additional info EPA could provide on this point would be helpful.

Ex. 5 AC/AWP/DP

3. In Section X at page 25 of the Policy, it states that certain project-related costs must be excluded from the portion of the SEP eligible for penalty mitigation. The Policy states that "Examples of costs to consider that are generally not appropriate for inclusion include: overhead; additional employee time and salary; administrative expenses; most legal fees; and contractor oversight." I'm struggling to understand those examples, since they seem quite broad. If Village employees implement a SEP within the Village boundaries, would the Village's cost for that employee labor be considered "additional" time and salary and thus completely excluded from the mitigation eligibility? Would the only mitigation-eligible costs of such a project be parts/materials/equipment? And can EPA shed light on how broad or narrow the definition of "administration expenses" is in that portion of the Policy?

Ex. 5 AC/AWP/DP

4. Section XII.A.2 at page 36 of the Policy seems to provide EPA with discretion in a particular settlement to exempt the proposed SEP from one or more requirements of the Policy. There it states as follows: "In all cases including a SEP which may not fully comply with the provisions of this Policy (e.g., the proposed settlement penalty is less than the minimum required penalty) . . . the settlement and the SEP must be approved by the Assistant Administrator for OECA." If I'm reading that catch-all exception correctly, EPA would have the discretion, for example, to accept a penalty payment by the Village at a level lower than what would seem otherwise required by the section of the Policy that I quote in my question 1 above. At what point in the SEP review process would EPA make such a decision?

Ex. 5 AC/AWP/DP

Lastly, a question not directed to the SEP Policy. Specifically, to what extent, if any, would EPA allow the Village to pay the penalty portion of a settlement in installments (e.g., payment of one-quarter the total penalty each year for four consecutive years) as opposed to requiring the Village to make a one-time upfront payment of the entire penalty?

Ex. 5 AC/AWP/DP

Thank you in advance for your assistance with this. Again, given the meeting with the Trustees this Thursday, we'd greatly appreciate receiving EPA's responses to the foregoing by COB tomorrow if possible.

Eli

Eli D. Eilbott

[Description: Description: cid:YMHZYIOFYWWM.IMAGE_28.png]

1615 M Street NW | Suite 800 | Washington, DC 20036
(202) 467-6370 | ede@dwgp.com<mailto:ede@dwgp.com> www.dwgp.com<http://www.dwgp.com/>

This communication is from a law firm and may contain confidential and/or privileged information. If it has been sent to you in error, please contact the sender for instructions concerning return or destruction, and do not use or disclose the contents to others.

Denise Leong
U.S. Environmental Protection Agency, Region 2
Office of Regional Counsel, Air Branch
290 Broadway, 16th Floor
New York, NY 10007
Phone: (212) 637-3214
Fax: (212) 637-3199

Note: This transmission may contain confidential communications, attorney work product, enforcement sensitive, attorney-client and/or other privileged materials. Do not release under FOIA without appropriate review. If this message was sent to you in error, you must delete it and not print, copy re-transmit, disseminate, or otherwise use the information.

From: Leong, Denise
Sent: Wednesday, November 14, 2018 2:33 PM
To: Villatora, Liliana <Villatora.Liliana@epa.gov>; LaVigna, Gaetano <LaVigna.Gaetano@epa.gov>
Cc: Buettner, Robert <Buettner.Robert@epa.gov>; Kan, Richard <Kan.Richard@epa.gov>; Cardile, Joseph <Cardile.Joseph@epa.gov>
Subject: RE: questions about EPA's SEP Policy - in BLUE

Ex. 5 Attorney Client (AC)

Denise Leong
U.S. Environmental Protection Agency, Region 2
Office of Regional Counsel, Air Branch
290 Broadway, 16th Floor
New York, NY 10007
Phone: (212) 637-3214
Fax: (212) 637-3199

Note: This transmission may contain confidential communications, attorney work product, enforcement sensitive, attorney-client and/or other privileged materials. Do not release under FOIA without appropriate review. If this message was sent to you in error, you must delete it and not print, copy re-transmit, disseminate, or otherwise use the information.

From: Villatora, Liliana
Sent: Wednesday, November 14, 2018 2:25 PM
To: LaVigna, Gaetano <LaVigna.Gaetano@epa.gov>
Cc: Leong, Denise <Leong.Denise@epa.gov>; Buettner, Robert <Buettner.Robert@epa.gov>; Kan, Richard <Kan.Richard@epa.gov>; Cardile, Joseph <Cardile.Joseph@epa.gov>
Subject: RE: questions about EPA's SEP Policy - in BLUE

Guy,

Ex. 5 Attorney Client (AC)

Ex. 5 Attorney Client (AC)

Liliana

From: LaVigna, Gaetano
Sent: Wednesday, November 14, 2018 12:58 PM
To: Villatora, Liliana <Villatora.Liliana@epa.gov>
Cc: Leong, Denise <Leong.Denise@epa.gov>; Buettner, Robert <Buettner.Robert@epa.gov>; Kan, Richard <Kan.Richard@epa.gov>; Cardile, Joseph <Cardile.Joseph@epa.gov>
Subject: Re: questions about EPA's SEP Policy - in BLUE

Ex. 5 Attorney Client (AC)

Sent from my iPhone

On Nov 14, 2018, at 11:24 AM, Villatora, Liliana <Villatora.Liliana@epa.gov> wrote:

Ex. 5 Attorney Client (AC)

From: Leong, Denise
Sent: Wednesday, November 14, 2018 11:21 AM
To: Buettner, Robert <Buettner.Robert@epa.gov>; LaVigna, Gaetano <LaVigna.Gaetano@epa.gov>; Kan, Richard <Kan.Richard@epa.gov>; Cardile, Joseph <Cardile.Joseph@epa.gov>
Cc: Villatora, Liliana <Villatora.Liliana@epa.gov>
Subject: FWD: questions about EPA's SEP Policy - in BLUE

Ex. 5 Attorney Client (AC)

-----Original Message-----
From: Cho, James (USANYE) <James.Cho@usdoj.gov>
Sent: Tuesday, November 13, 2018 11:47 AM
To: Leong, Denise <Leong.Denise@epa.gov>
Cc: LaVigna, Gaetano <LaVigna.Gaetano@epa.gov>; Villatora, Liliana <Villatora.Liliana@epa.gov>
Subject: Fwd: questions about EPA's SEP Policy

See updated email below.

James R. Cho
Assistant U.S. Attorney
U.S. Attorney's Office
Eastern District of New York
271-A Cadman Plaza East, 7th floor<x-apple-data-detectors://9/0>
Brooklyn, New York 11201<x-apple-data-detectors://9/0>
718-254-6519<tel:718-254-6519> (direct)
718-254-7483<tel:718-254-7483> (fax)
james.cho@usdoj.gov<mailto:james.cho@usdoj.gov>

Begin forwarded message:

From: Eli Eilbott <EDE@dwgp.com<mailto:EDE@dwgp.com>>
Date: November 13, 2018 at 11:33:30 AM EST
To: "James.Cho@usdoj.gov<mailto:James.Cho@usdoj.gov>"
<James.Cho@usdoj.gov<mailto:James.Cho@usdoj.gov>>
Subject: RE: questions about EPA's SEP Policy

PRIVILEGED AND CONFIDENTIAL
FOR SETTLEMENT PURPOSES ONLY
NOT ADMISSIBLE PURSUANT TO F.R.E. 408

Actually, re-reading the SEP Policy language quoted in my question no 1 below, I believe my figure of Ex. 7(A) is not correct, since I added 10% of the economic benefit component when it should be 10% of the gravity component. I believe that translates into approximately Ex. 7(A) for the economic benefit component, plus 10% of the Ex. 7(A) gravity component). So, a SEP would seem to make even less sense, assuming the foregoing is correct.

Ex. 5 Attorney Client (AC)

From: Eli Eilbott
Sent: Tuesday, November 13, 2018 11:21 AM
To: James.Cho@usdoj.gov<mailto:James.Cho@usdoj.gov>
Subject: questions about EPA's SEP Policy
Importance: High

PRIVILEGED AND CONFIDENTIAL
FOR SETTLEMENT PURPOSES ONLY
NOT ADMISSIBLE PURSUANT TO F.R.E. 408

Mr. Cho,

Thanks again for this past Friday's meeting with the Village of Rockville Centre. Since that time we've been reviewing EPA's SEP policy, which I believe was most recently updated in March 2015, according to this info: https://www.epa.gov/sites/production/files/2015-04/documents/sepupdatedpolicy15.pdf

The Village had a few questions for your team regarding how a potential SEP implemented by the Village as part of a settlement of the Feb. 2012 NOV might work. Because Mr. Andreas will be meeting with the Village Trustees this Thursday to discuss this matter and because EPA and the Village are scheduled to meet again on Nov. 27, I would greatly appreciate it if you/EPA could clarify the following by COB tomorrow if at all possible:

1. As I read Section IX.B.1 of the Policy, at page 21, where a settlement includes a SEP, the amount of the penalty must be equal to the greater of (a) the economic benefit of noncompliance plus ten percent of the gravity component, or (b) twenty-five percent of the gravity component. Ex. 7(A)

Ex. 7(A)

Ex. 5 AC/AWP/DP

2. At the top of p.24 of the Policy, in Section IX.C, it states that "The amount of penalty mitigation given for a SEP should be equivalent to a percentage of the estimated cost to implement the SEP and should not exceed eighty percent (80%) of that estimated cost." Further down on that same page, however, it provides that "For defendants that are . . . government agencies or entities . . . the penalty mitigation amount may be set as high as one hundred percent (100%) of the estimated SEP cost, if the defendant can demonstrate the project is of outstanding quality." Footnote 33 on that page, in turn, states "Outstanding quality may be based on how well a SEP meets and exceeds one or more of the evaluation criteria described in Section VIII, as well as on relevant case-specific factors." To help the Village better understand the possibility that a potential SEP it might implement would earn a 100% penalty mitigation, could EPA provide any more concrete information on what it might consider a SEP of "outstanding quality"? I realize the Policy states this is a case-by-case determination, but any additional info EPA could provide on this point would be helpful.

Ex. 5 AC/AWP/DP

3. In Section X at page 25 of the Policy, it states that certain project-related costs must be excluded from the portion of the SEP eligible for penalty mitigation. The Policy states that "Examples of costs to consider that are generally not appropriate for inclusion include: overhead; additional employee time and salary; administrative expenses; most legal fees; and contractor oversight." I'm struggling to understand those examples, since they seem quite broad. If Village employees implement a SEP within the Village boundaries, would the Village's cost for that employee labor be considered "additional" time and salary and thus completely excluded from the mitigation eligibility? Would the only mitigation-eligible costs of such a project be parts/materials/equipment? And can EPA shed light on how broad or narrow the definition of "administration expenses" is in that portion of the Policy?

Ex. 5 AC/AWP/DP

Ex. 5 AC/AWP/DP

4. Section XII.A.2 at page 36 of the Policy seems to provide EPA with discretion in a particular settlement to exempt the proposed SEP from one or more requirements of the Policy. There it states as follows: "In all cases including a SEP which may not fully comply with the provisions of this Policy (e.g., the proposed settlement penalty is less than the minimum required penalty) . . . the settlement and the SEP must be approved by the Assistant Administrator for OECA." If I'm reading that catch-all exception correctly, EPA would have the discretion, for example, to accept a penalty payment by the Village at a level lower than what would seem otherwise required by the section of the Policy that I quote in my question 1 above. At what point in the SEP review process would EPA make such a decision?

Ex. 5 AC/AWP/DP

Lastly, a question not directed to the SEP Policy. Specifically, to what extent, if any, would EPA allow the Village to pay the penalty portion of a settlement in installments (e.g., payment of one-quarter the total penalty each year for four consecutive years) as opposed to requiring the Village to make a one-time upfront payment of the entire penalty?

Ex. 5 AC/AWP/DP

Thank you in advance for your assistance with this. Again, given the meeting with the Trustees this Thursday, we'd greatly appreciate receiving EPA's responses to the foregoing by COB tomorrow if possible.

Eli

Eli D. Eilbott

[Description: Description: cid:YMHZYIOFYWWM.IMAGE_28.png]

1615 M Street NW | Suite 800 | Washington, DC 20036
(202) 467-6370 | ede@dwgp.com<mailto:ede@dwgp.com> www.dwgp.com<http://www.dwgp.com/>

This communication is from a law firm and may contain confidential and/or privileged information. If it has been sent to you in error, please contact the sender for instructions concerning return or destruction, and do not use or disclose the contents to others.

Message

From: Villatora, Liliana [Villatora.Liliana@epa.gov]
Sent: 9/10/2019 2:27:53 PM
To: Ritz, Phillip [Ritz.Phillip@epa.gov]; Cardile, Joseph [Cardile.Joseph@epa.gov]; LaVigna, Gaetano [LaVigna.Gaetano@epa.gov]
Subject: FW: Town of Brookhaven
Attachments: SYRNY1-#3395354-v2-Proposed_Consent_Judgment.DOCX

From: Urdaz, Damaris
Sent: Thursday, September 5, 2019 1:24 PM
To: Villatora, Liliana <Villatora.Liliana@epa.gov>; Buettner, Robert <Buettner.Robert@epa.gov>
Subject: FW: Town of Brookhaven

Ex. 5 AC/AWP

From: Tyson, Robert <tysonr@BSK.com>
Sent: Thursday, September 5, 2019 12:45 PM
To: Beckmann, Diane (USANYE) (Diane.Beckmann@usdoj.gov) <Diane.Beckmann@usdoj.gov>; Urdaz, Damaris <Urdaz.Damaris@epa.gov>
Subject: Town of Brookhaven

Privileged and Confidential
For Settlement Purposes Only

Dear Diane and Damaris,

On behalf of the Town of Brookhaven, attached for review is a redline version of a revised draft Consent Judgment. The Town is in agreement with many of the changes contained in the March 28 version the United States shared, and the remaining redline items represent the final issues for which agreement needs to be reached. We don't think any of the redline issues should present any concern, and they relate to issues the parties have discussed previously. But, if a conference call would be helpful to discuss, we can certainly arrange that.

Thank you for your time and consideration, and please let me know if you have questions. Regards, Bob Tyson

Robert Tyson
Member - Dept. Chair - Property
Chair - Environmental and Energy Practice Group
315.218.8221 Direct
315.243.6850 Cell
RTyson@bsk.com
Bio

BOND SCHOENECK & KING ATTORNEYS
Commitment · Service · Value · Our Bond
One Lincoln Center, Syracuse, NY 13202-1355
This email is ONLY for the person(s) named in the message header. Unless otherwise indicated, it contains information that is confidential, privileged or exempt from disclosure under applicable law. If you have received it in error, please notify the sender of the error and delete the message.

Message

From: Urdaz, Damaris [Urdaz.Damaris@epa.gov]
Sent: 5/24/2018 12:21:10 AM
To: Cardile, Joseph [Cardile.Joseph@epa.gov]; Ritz, Phillip [Ritz.Phillip@epa.gov]
CC: Buettner, Robert [Buettner.Robert@epa.gov]; Villatora, Liliana [Villatora.Liliana@epa.gov]; LaVigna, Gaetano [LaVigna.Gaetano@epa.gov]
Subject: RE: Brookhaven CD - DUE DATE

Ex. 5 AC/AWP

From: Cardile, Joseph
Sent: Wednesday, May 23, 2018 5:55 PM
To: Ritz, Phillip <Ritz.Phillip@epa.gov>
Cc: Buettner, Robert <Buettner.Robert@epa.gov>; Villatora, Liliana <Villatora.Liliana@epa.gov>; LaVigna, Gaetano <LaVigna.Gaetano@epa.gov>; Urdaz, Damaris <Urdaz.Damaris@epa.gov>
Subject: RE: Brookhaven CD - DUE DATE

Hi Folks,

Ex. 5 AC/AWP

Thx

Joe

Joseph Cardile, Environmental Engineer
Stationary Source Compliance Section
Air Compliance Branch
U.S. EPA, Region 2
290 Broadway, 21st Floor
New York, New York 10007-1866
Phone (212) 637-4054
Email: Cardile.Joseph@epa.gov

CONFIDENTIAL: This transmission may contain deliberative and/or enforcement confidential, attorney-client, or otherwise privileged material. Do not release under FOIA without appropriate review. If you have received this message in error, you are asked to notify the sender and to delete this message.

From: Ritz, Phillip
Sent: Thursday, March 22, 2018 11:33 AM
To: Villatora, Liliana; Cardile, Joseph; Urdaz, Damaris
Subject: FW: Brookhaven CD - DUE DATE

Ex. 5 AC/AWP

From: LaVigna, Gaetano
Sent: Wednesday, May 31, 2017 3:36 PM
To: Simpson, James <Simpson.James@epa.gov>; Buettner, Robert <Buettner.Robert@epa.gov>; Ritz, Phillip <Ritz.Phillip@epa.gov>
Cc: Villatora, Liliana <Villatora.Liliana@epa.gov>
Subject: RE: Brookhaven CD - DUE DATE

See attached comments

Gaetano La Vigna, Chief
Stationary Source Compliance Section
Air Compliance Branch
U.S. EPA Region 2
290 Broadway, 21st Floor
New York, New York 10007-1866
Phone (212) 637-4069
Email LaVigna.Gaetano@epa.gov

CONFIDENTIAL: This transmission may contain deliberative and/or enforcement confidential, attorney-client, or otherwise privileged material. Do not release under FOIA without appropriate review. If you have received this message in error, you are asked to notify the sender and to delete this message.

From: Simpson, James
Sent: Friday, May 19, 2017 11:53 AM
To: Buettner, Robert <Buettner.Robert@epa.gov>; LaVigna, Gaetano <LaVigna.Gaetano@epa.gov>; Ritz, Phillip <Ritz.Phillip@epa.gov>
Cc: Villatora, Liliana <Villatora.Liliana@epa.gov>
Subject: Brookhaven CD - DUE DATE
Importance: High

Hello folks,

Ex. 5 AC/AWP

Regards,
Jay

James L. Simpson
Assistant Regional Counsel
U.S. EPA, Region 2
290 Broadway, 16th Floor
New York, New York 10007
212-637-3245 (direct)
Simpson.James@epa.gov

CONFIDENTIAL: This transmission may contain deliberative, attorney-client, attorney work product or otherwise privileged material. Do not release under FOIA without appropriate review. If this message was sent to you in error, you are instructed to delete this message from your machine and all storage media whether electronic or hard copy.

Please consider the environment before printing this email.

Message

From: Leong, Denise [Leong.Denise@epa.gov]
Sent: 11/14/2018 7:33:15 PM
To: Villatora, Liliana [Villatora.Liliana@epa.gov]; LaVigna, Gaetano [LaVigna.Gaetano@epa.gov]
CC: Buettner, Robert [Buettner.Robert@epa.gov]; Kan, Richard [Kan.Richard@epa.gov]; Cardile, Joseph [Cardile.Joseph@epa.gov]
Subject: RE: questions about EPA's SEP Policy - in BLUE

Ex. 5 Attorney Client (AC)

Denise Leong
U.S. Environmental Protection Agency, Region 2
Office of Regional Counsel, Air Branch
290 Broadway, 16th Floor
New York, NY 10007
Phone: (212) 637-3214
Fax: (212) 637-3199

Note: This transmission may contain confidential communications, attorney work product, enforcement sensitive, attorney-client and/or other privileged materials. Do not release under FOIA without appropriate review. If this message was sent to you in error, you must delete it and not print, copy re-transmit, disseminate, or otherwise use the information.

From: Villatora, Liliana
Sent: Wednesday, November 14, 2018 2:25 PM
To: LaVigna, Gaetano <LaVigna.Gaetano@epa.gov>
Cc: Leong, Denise <Leong.Denise@epa.gov>; Buettner, Robert <Buettner.Robert@epa.gov>; Kan, Richard <Kan.Richard@epa.gov>; Cardile, Joseph <Cardile.Joseph@epa.gov>
Subject: RE: questions about EPA's SEP Policy - in BLUE

Guy,

Ex. 5 Attorney Client (AC)

Liliana

From: LaVigna, Gaetano
Sent: Wednesday, November 14, 2018 12:58 PM
To: Villatora, Liliana <Villatora.Liliana@epa.gov>
Cc: Leong, Denise <Leong.Denise@epa.gov>; Buettner, Robert <Buettner.Robert@epa.gov>; Kan, Richard <Kan.Richard@epa.gov>; Cardile, Joseph <Cardile.Joseph@epa.gov>
Subject: Re: questions about EPA's SEP Policy - in BLUE

Ex. 5 Attorney Client (AC)

Sent from my iPhone

On Nov 14, 2018, at 11:24 AM, Villatora, Liliana <Villatora.Liliana@epa.gov> wrote:

Ex. 5 Attorney Client (AC)

From: Leong, Denise
Sent: Wednesday, November 14, 2018 11:21 AM
To: Buettner, Robert <Buettner.Robert@epa.gov>; LaVigna, Gaetano <LaVigna.Gaetano@epa.gov>; Kan, Richard <Kan.Richard@epa.gov>; Cardile, Joseph <Cardile.Joseph@epa.gov>
Cc: Villatora, Liliana <Villatora.Liliana@epa.gov>
Subject: FWD: questions about EPA's SEP Policy - in BLUE

Ex. 5 Attorney Client (AC)

-----Original Message-----
From: Cho, James (USANYE) <James.Cho@usdoj.gov>
Sent: Tuesday, November 13, 2018 11:47 AM
To: Leong, Denise <Leong.Denise@epa.gov>
Cc: LaVigna, Gaetano <LaVigna.Gaetano@epa.gov>; Villatora, Liliana <Villatora.Liliana@epa.gov>
Subject: Fwd: questions about EPA's SEP Policy

See updated email below.

James R. Cho
Assistant U.S. Attorney
U.S. Attorney's Office
Eastern District of New York
271-A Cadman Plaza East, 7th floor<x-apple-data-detectors://9/0>
Brooklyn, New York 11201<x-apple-data-detectors://9/0>
718-254-6519<tel:718-254-6519> (direct)
718-254-7483<tel:718-254-7483> (fax)
james.cho@usdoj.gov<mailto:james.cho@usdoj.gov>

Begin forwarded message:

From: Eli Eilbott <EDE@dwgp.com<mailto:EDE@dwgp.com>>
Date: November 13, 2018 at 11:33:30 AM EST
To: "James.Cho@usdoj.gov<mailto:James.Cho@usdoj.gov>"
<James.Cho@usdoj.gov<mailto:James.Cho@usdoj.gov>>
Subject: RE: questions about EPA's SEP Policy

PRIVILEGED AND CONFIDENTIAL
FOR SETTLEMENT PURPOSES ONLY
NOT ADMISSIBLE PURSUANT TO F.R.E. 408

Actually, re-reading the SEP Policy language quoted in my question no 1 below, I believe my figure of Ex. 7(A) is not correct, since I added 10% of the economic benefit component when it should be 10% of the gravity component. I believe that translates into approximately Ex. 7(A) for the economic benefit component, plus 10% of the Ex. 7(A) gravity component). So, a SEP would seem to make even less sense, assuming the foregoing is correct.

Ex. 5 AC/DP

From: Eli Eilbott
Sent: Tuesday, November 13, 2018 11:21 AM
To: James.Cho@usdoj.gov<mailto:James.Cho@usdoj.gov>
Subject: questions about EPA's SEP Policy
Importance: High

PRIVILEGED AND CONFIDENTIAL
FOR SETTLEMENT PURPOSES ONLY
NOT ADMISSIBLE PURSUANT TO F.R.E. 408

Mr. Cho,

Thanks again for this past Friday's meeting with the Village of Rockville Centre. Since that time we've been reviewing EPA's SEP policy, which I believe was most recently updated in March 2015, according to this info: https://www.epa.gov/sites/production/files/2015-04/documents/sepupdatedpolicy15.pdf

The Village had a few questions for your team regarding how a potential SEP implemented by the Village as part of a settlement of the Feb. 2012 NOV might work. Because Mr. Andreas will be meeting with the Village Trustees this Thursday to discuss this matter and because EPA and the Village are scheduled to meet again on Nov. 27, I would greatly appreciate it if you/EPA could clarify the following by COB tomorrow if at all possible:

1. As I read Section IX.B.1 of the Policy, at page 21, where a settlement includes a SEP, the amount of the penalty must be equal to the greater of (a) the economic benefit of noncompliance plus ten percent of the gravity component, or (b) twenty-five percent of the gravity component. Ex. 7(A) I believe that Guy stated that EPA assigned $72,000 for the economic benefit component, and $159,000 for the gravity component. If I heard him correctly, and if I'm reading the SEP Policy correctly, that

Ex. 7(A)

Ex. 5 AC/AWP/DP

2. At the top of p.24 of the Policy, in Section IX.C, it states that "The amount of penalty mitigation given for a SEP should be equivalent to a percentage of the estimated cost to implement the SEP and should not exceed eighty percent (80%) of that estimated cost." Further down on that same page, however, it provides that "For defendants that are . . . government agencies or entities . . . the penalty mitigation amount may be set as high as one hundred percent (100%) of the estimated SEP cost, if the defendant can demonstrate the project is of outstanding quality." Footnote 33 on that page, in turn, states "Outstanding quality may be based on how well a SEP meets and exceeds one or more of the evaluation criteria described in Section VIII, as well as on relevant case-specific factors." To help the Village better understand the possibility that a potential SEP it might implement would earn a 100% penalty mitigation, could EPA provide any more concrete information on what it might consider a SEP of "outstanding quality"? I realize the Policy states this is a case-by-case determination, but any additional info EPA could provide on this point would be helpful.

Ex. 5 AC/AWP/DP

3. In Section X at page 25 of the Policy, it states that certain project-related costs must be excluded from the portion of the SEP eligible for penalty mitigation. The Policy states that "Examples of costs to consider that are generally not appropriate for inclusion include: overhead; additional employee time and salary; administrative expenses; most legal fees; and contractor oversight." I'm struggling to understand those examples, since they seem quite broad. If Village employees implement a SEP within the Village boundaries, would the Village's cost for that employee labor be considered "additional" time and salary and thus completely excluded from the mitigation eligibility? Would the only mitigation-eligible costs of such a project be parts/materials/equipment? And can EPA shed light on how broad or narrow the definition of "administration expenses" is in that portion of the Policy?

Ex. 5 AC/AWP/DP

4. Section XII.A.2 at page 36 of the Policy seems to provide EPA with discretion in a particular settlement to exempt the proposed SEP from one or more requirements of the Policy. There it states as follows: "In all cases including a SEP which may not fully comply with the provisions of this Policy (e.g., the proposed settlement penalty is less than the minimum required penalty) . . . the settlement and the SEP must be approved by the Assistant Administrator for OECA." If I'm reading that catch-all exception correctly, EPA would have the discretion, for example, to accept a penalty payment by the Village at a level lower than what would seem otherwise required by the section of the Policy that I quote in my question 1 above. At what point in the SEP review process would EPA make such a decision?

Ex. 5 AC/AWP/DP

Lastly, a question not directed to the SEP Policy. Specifically, to what extent, if any, would EPA allow the Village to pay the penalty portion of a settlement in installments (e.g., payment of one-quarter the total penalty each year for four consecutive years) as opposed to requiring the Village to make a one-time upfront payment of the entire penalty?

Ex. 5 AC/AWP/DP

Thank you in advance for your assistance with this. Again, given the meeting with the Trustees this Thursday, we'd greatly appreciate receiving EPA's responses to the foregoing by COB tomorrow if possible.

Eli

Eli D. Eilbott

[Description: Description: cid:YMHZYIOFYWWM.IMAGE_28.png]

1615 M Street NW | Suite 800 | Washington, DC 20036
(202) 467-6370 | ede@dwgp.com<mailto:ede@dwgp.com> www.dwgp.com<http://www.dwgp.com/>

This communication is from a law firm and may contain confidential and/or privileged information. If it has been sent to you in error, please contact the sender for instructions concerning return or destruction, and do not use or disclose the contents to others.

Message

From: Urdaz, Damaris [Urdaz.Damaris@epa.gov]
Sent: 8/12/2019 2:48:36 PM
To: Buettner, Robert [Buettner.Robert@epa.gov]; McHale, Mary [McHale.Mary@epa.gov]; Cardile, Joseph [Cardile.Joseph@epa.gov]; Villatora, Liliana [Villatora.Liliana@epa.gov]; Leong, Denise [Leong.Denise@epa.gov]; LaVigna, Gaetano [LaVigna.Gaetano@epa.gov]
Subject: Ex. 5 Attorney Client (AC)

Thank you Robert…much appreciated!

From: Buettner, Robert <Buettner.Robert@epa.gov>
Sent: Monday, August 12, 2019 10:44 AM
To: McHale, Mary <McHale.Mary@epa.gov>; Cardile, Joseph <Cardile.Joseph@epa.gov>; Villatora, Liliana <Villatora.Liliana@epa.gov>; Urdaz, Damaris <Urdaz.Damaris@epa.gov>; Leong, Denise <Leong.Denise@epa.gov>; LaVigna, Gaetano <LaVigna.Gaetano@epa.gov>
Subject: Ex. 5 Attorney Client (AC)

Ex. 6 PP

Ex. 5 AC

Scheduled: Monday, Aug 12, 2019 from 11:30 AM to 12:00 PM
Location: Conference line Ex. 6 PP
Invitees: McHale, Mary, Cardile, Joseph, Villatora, Liliana, Urdaz, Damaris, Leong, Denise, LaVigna, Gaetano

Robert Buettner,
Chief, Air Compliance Branch
US EPA Region 2 DECA/ACB
290 Broadway, 21st Floor
New York NY 10007
buettner.robert@epa.gov
(212) 637 5031
CONFIDENTIAL: This transmission may contain deliberative and/or enforcement confidential, attorney-client, or otherwise privileged material. Do not release under FOIA without appropriate review. If you have received this message in error, you are asked to notify the sender and to delete this message.

Message

From: Villatora, Liliana [Villatora.Liliana@epa.gov]
Sent: 9/10/2019 2:13:35 PM
To: Ritz, Phillip [Ritz.Phillip@epa.gov]; Cardile, Joseph [Cardile.Joseph@epa.gov]
CC: LaVigna, Gaetano [LaVigna.Gaetano@epa.gov]
Subject: brookhaven
Attachments: Brookhaven-Bodine-SEP-Round2.docx

Appointment

From: Buettner, Robert [Buettner.Robert@epa.gov]
Sent: 8/12/2019 2:42:58 PM
To: Cardile, Joseph [Cardile.Joseph@epa.gov]; Leong, Denise [Leong.Denise@epa.gov]; Villatora, Liliana [Villatora.Liliana@epa.gov]; McHale, Mary [McHale.Mary@epa.gov]; Urdaz, Damaris [Urdaz.Damaris@epa.gov]; LaVigna, Gaetano [LaVigna.Gaetano@epa.gov]
Subject: Ex. 5 Attorney Client (AC)
Location: Conference line Ex. 6 PP

Start: 8/12/2019 3:30:00 PM
End: 8/12/2019 4:00:00 PM
Show Time As: Tentative

Importance: High

Ex. 5 DP/AC

Message

From: Ritz, Phillip [Ritz.Phillip@epa.gov]
Sent: 5/23/2018 6:27:55 PM
To: Cardile, Joseph [Cardile.Joseph@epa.gov]
Subject: Fw: Brookhaven CD - DUE DATE
Attachments: Brookhaven.CJ.Draft 5.7.17 gl.docx

From: Ritz, Phillip
Sent: Thursday, March 22, 2018 11:33 AM
To: Villatora, Liliana; Cardile, Joseph; Urdaz, Damaris
Subject: FW: Brookhaven CD - DUE DATE

FYI

From: LaVigna, Gaetano
Sent: Wednesday, May 31, 2017 3:36 PM
To: Simpson, James <Simpson.James@epa.gov>; Buettner, Robert <Buettner.Robert@epa.gov>; Ritz, Phillip <Ritz.Phillip@epa.gov>
Cc: Villatora, Liliana <Villatora.Liliana@epa.gov>
Subject: RE: Brookhaven CD - DUE DATE

See attached comments

Gaetano La Vigna, Chief
Stationary Source Compliance Section
Air Compliance Branch
U.S. EPA Region 2
290 Broadway, 21st Floor
New York, New York 10007-1866
Phone (212) 637-4069
Email LaVigna.Gaetano@epa.gov

CONFIDENTIAL: This transmission may contain deliberative and/or enforcement confidential, attorney-client, or otherwise privileged material. Do not release under FOIA without appropriate review. If you have received this message in error, you are asked to notify the sender and to delete this message.

From: Simpson, James
Sent: Friday, May 19, 2017 11:53 AM
To: Buettner, Robert <Buettner.Robert@epa.gov>; LaVigna, Gaetano <LaVigna.Gaetano@epa.gov>; Ritz, Phillip <Ritz.Phillip@epa.gov>
Cc: Villatora, Liliana <Villatora.Liliana@epa.gov>
Subject: Brookhaven CD - DUE DATE
Importance: High

Hello folks,

Ex. 5 AC/AWP

Let me know if you have any comments or questions.

Regards,
Jay

James L. Simpson
Assistant Regional Counsel
U.S. EPA, Region 2
290 Broadway, 16th Floor
New York, New York 10007
212-637-3245 (direct)
Simpson.James@epa.gov

CONFIDENTIAL: This transmission may contain deliberative, attorney-client, attorney work product or otherwise privileged material. Do not release under FOIA without appropriate review. If this message was sent to you in error, you are instructed to delete this message from your machine and all storage media whether electronic or hard copy.

Please consider the environment before printing this email.

Message

From: Ritz, Phillip [Ritz.Phillip@epa.gov]
Sent: 2/1/2018 11:09:05 PM
To: Cardile, Joseph [Cardile.Joseph@epa.gov]
Subject: FW: sep for brookhaven

From: Urdaz, Damaris
Sent: Thursday, November 30, 2017 8:53 AM
To: Ritz, Phillip <Ritz.Phillip@epa.gov>
Subject: RE: sep for brookhaven

Ex. 5 AC

From: Ritz, Phillip
Sent: Monday, November 27, 2017 9:30 AM
To: Urdaz, Damaris <Urdaz.Damaris@epa.gov>; Cardile, Joseph <Cardile.Joseph@epa.gov>
Subject: FW: sep for brookhaven

From: Ritz, Phillip
Sent: Wednesday, May 31, 2017 3:18 PM
To: Simpson, James <Simpson.James@epa.gov>
Subject: sep for brookhaven

Ex. 5 AC/AWP

CONFIDENTIAL: This transmission may contain deliberative and/or enforcement confidential, attorney-client, or otherwise privileged material. Do not release under FOIA without appropriate review. If you have received this message in error, you are asked to notify the sender and to delete this message.

Message

From: Cardile, Joseph [Cardile.Joseph@epa.gov]
Sent: 8/9/2019 2:51:00 PM
To: Cardile, Joseph [Cardile.Joseph@epa.gov]
Attachments: Brookhaven Penalty 2019-07-26 Rev no SEP.xlsx

Message

From: McHale, Mary [McHale.Mary@epa.gov]
Sent: 8/8/2019 5:54:29 PM
To: Buettner, Robert [Buettner.Robert@epa.gov]; Urdaz, Damaris [Urdaz.Damaris@epa.gov]; Villatora, Liliana [Villatora.Liliana@epa.gov]; LaVigna, Gaetano [LaVigna.Gaetano@epa.gov]; Cardile, Joseph [Cardile.Joseph@epa.gov]
Subject: Ex. 5 Attorney Client (AC)

Liliana will be in on Monday 8/12 (and I will be on AL) so hopefully she can attend. Thanks, Damaris, for pointing out the date!

From: McHale, Mary
Sent: Thursday, August 08, 2019 12:49 PM
To: Buettner, Robert <Buettner.Robert@epa.gov>; Urdaz, Damaris <Urdaz.Damaris@epa.gov>; Villatora, Liliana <Villatora.Liliana@epa.gov>; LaVigna, Gaetano <LaVigna.Gaetano@epa.gov>; Cardile, Joseph <Cardile.Joseph@epa.gov>
Subject: Ex. 5 Attorney Client (AC)

Robert – I am very sorry for the delay in responding. I was not getting my messages. I hope it went well.

-----Original Appointment-----
From: Urdaz, Damaris <Urdaz.Damaris@epa.gov> **On Behalf Of** Buettner, Robert
Sent: Thursday, August 08, 2019 8:10 AM
To: McHale, Mary
Subject: Ex. 5 Attorney Client (AC)
When: Monday, August 12, 2019 11:30 AM-12:00 PM (UTC-05:00) Eastern Time (US & Canada).
Where: Robert's office
Importance: High

Ex. 5 DP/AC/AWP

-----Original Appointment-----
From: Buettner, Robert <Buettner.Robert@epa.gov>
Sent: Thursday, August 8, 2019 7:29 AM
To: Buettner, Robert; Urdaz, Damaris; Villatora, Liliana; LaVigna, Gaetano; Cardile, Joseph
Subject: Ex. 5 Attorney Client (AC)
When: Monday, August 12, 2019 11:30 AM-12:00 PM (UTC-05:00) Eastern Time (US & Canada).
Where: Robert's office
Importance: High

Ex. 5 DP/AC/AWP

Message

From: Ritz, Phillip [Ritz.Phillip@epa.gov]
Sent: 7/29/2019 1:09:37 PM
To: Cardile, Joseph [Cardile.Joseph@epa.gov]
Subject: Ex. 5 DP/AC

Thank you.

From: Cardile, Joseph
Sent: Friday, July 26, 2019 4:08 PM
To: Urdaz, Damaris <Urdaz.Damaris@epa.gov>
Cc: Buettner, Robert <Buettner.Robert@epa.gov>; Villatora, Liliana <Villatora.Liliana@epa.gov>; LaVigna, Gaetano <LaVigna.Gaetano@epa.gov>; Ritz, Phillip <Ritz.Phillip@epa.gov>
Subject: Ex. 5 DP/AC

Hi Damaris,

Ex. 5 DP/AC

Thx
Joe

Joseph Cardile, Environmental Engineer
Stationary Source Compliance Section
Air Compliance Branch
U.S. EPA, Region 2
290 Broadway, 21st Floor
New York, New York 10007-1866
Phone (212) 637-4054
Email: Cardile.Joseph@epa.gov

CONFIDENTIAL: This transmission may contain deliberative and/or enforcement confidential, attorney-client, or otherwise privileged material. Do not release under FOIA without appropriate review. If you have received this message in error, you are asked to notify the sender and to delete this message.

Message

From: Urdaz, Damaris [Urdaz.Damaris@epa.gov]
Sent: 5/24/2019 6:48:02 PM
To: Beckmann, Diane (USANYE) [Diane.Beckmann@usdoj.gov]
CC: LaVigna, Gaetano [LaVigna.Gaetano@epa.gov]; Ritz, Phillip [Ritz.Phillip@epa.gov]; Cardile, Joseph [Cardile.Joseph@epa.gov]
Subject: RE:
Attachments: Ex. 5 DP/AC

Ex. 5 DP/AC

From: Beckmann, Diane (USANYE) <Diane.Beckmann@usdoj.gov>
Sent: Friday, May 24, 2019 2:44 PM
To: Urdaz, Damaris <Urdaz.Damaris@epa.gov>
Cc: LaVigna, Gaetano <LaVigna.Gaetano@epa.gov>; Ritz, Phillip <Ritz.Phillip@epa.gov>; Cardile, Joseph <Cardile.Joseph@epa.gov>
Subject: RE:

Ex. 5 DP/AC

From: Urdaz, Damaris <Urdaz.Damaris@epa.gov>
Sent: Friday, May 24, 2019 2:42 PM
To: Beckmann, Diane (USANYE) <DBeckmann@usa.doj.gov>
Cc: LaVigna, Gaetano <LaVigna.Gaetano@epa.gov>; Ritz, Phillip <Ritz.Phillip@epa.gov>; Cardile, Joseph <Cardile.Joseph@epa.gov>
Subject: RE:

Ex. 5 DP/AC

From: Beckmann, Diane (USANYE) <Diane.Beckmann@usdoj.gov>
Sent: Friday, May 24, 2019 2:38 PM
To: Urdaz, Damaris <Urdaz.Damaris@epa.gov>
Subject:

Ex. 5 DP/AC

Diane C. Leonardo
Assistant United States Attorney
Deputy Chief, Long Island Civil Division
610 Federal Plaza
Central Islip, New York 11722

631-715-7854
Email: Diane.beckmann@usdoj.gov

Message

From: Urdaz, Damaris [Urdaz.Damaris@epa.gov]
Sent: 5/24/2019 5:36:22 PM
To: LaVigna, Gaetano [LaVigna.Gaetano@epa.gov]; Ritz, Phillip [Ritz.Phillip@epa.gov]; Cardile, Joseph [Cardile.Joseph@epa.gov]
CC: Beckmann, Diane (USANYE) [Diane.Beckmann@usdoj.gov]
Subject: FW: Brookhaven SEP

Ex. 5 AC/DP/AWP Thank you.

From: Beckmann, Diane (USANYE) <Diane.Beckmann@usdoj.gov>
Sent: Friday, May 24, 2019 1:32 PM
To: Urdaz, Damaris <Urdaz.Damaris@epa.gov>
Subject: Brookhaven SEP

Ex. 5 AC/DP/AWP

Diane C. Leonardo
Assistant United States Attorney
Deputy Chief, Long Island Civil Division
610 Federal Plaza
Central Islip, New York 11722

631-715-7854
Email: Diane.beckmann@usdoj.gov

Message

From: Ritz, Phillip [Ritz.Phillip@epa.gov]
Sent: 7/22/2019 2:43:27 PM
To: Cardile, Joseph [Cardile.Joseph@epa.gov]
Subject: Ex. 5 AC

From: Urdaz, Damaris
Sent: Monday, July 22, 2019 10:40 AM
To: Ritz, Phillip <Ritz.Phillip@epa.gov>
Subject: Ex. 5 AC

Ex. 5 AC

Ex. 5 AC

From: Ritz, Phillip
Sent: Monday, July 22, 2019 10:37 AM
To: Cardile, Joseph <Cardile.Joseph@epa.gov>; Urdaz, Damaris <Urdaz.Damaris@epa.gov>
Subject: Ex. 5 AC

Ex. 5 AC

Ex. 5 AC

From: Cardile, Joseph
Sent: Wednesday, July 17, 2019 6:09 PM
To: Urdaz, Damaris <Urdaz.Damaris@epa.gov>
Cc: Buettner, Robert <Buettner.Robert@epa.gov>; Villatora, Liliana <Villatora.Liliana@epa.gov>; LaVigna, Gaetano <LaVigna.Gaetano@epa.gov>; Ritz, Phillip <Ritz.Phillip@epa.gov>
Subject: Ex. 5 AC

Hi Damaris,

Ex. 5 AC

Thx
Joe

Message

From: Ritz, Phillip [Ritz.Phillip@epa.gov]
Sent: 7/17/2019 3:16:58 PM
To: Cardile, Joseph [Cardile.Joseph@epa.gov]; Urdaz, Damaris [Urdaz.Damaris@epa.gov]
Subject: FW: Request for Conference Call on August 22
Attachments: Ex. 5 AC/AWP

From: Urdaz, Damaris
Sent: Monday, August 20, 2018 2:23 PM
To: Villatora, Liliana <Villatora.Liliana@epa.gov>; LaVigna, Gaetano <LaVigna.Gaetano@epa.gov>; Ritz, Phillip <Ritz.Phillip@epa.gov>; Cardile, Joseph <Cardile.Joseph@epa.gov>
Cc: Buettner, Robert <Buettner.Robert@epa.gov>
Subject: FW: Request for Conference Call on August 22

FYI

From: Robbins, Virginia [mailto:RobbinV@bsk.com]
Sent: Monday, August 20, 2018 1:47 PM
To: Diane.beckmann@usdoj.gov; Urdaz, Damaris <Urdaz.Damaris@epa.gov>
Cc: Kevin Johnston <kjohnston@brookhavenny.gov>; Michael J. Cahill <MJC@GermanoCahill.com>; Tyson, Robert <TysonR@BSK.com>
Subject: Request for Conference Call on August 22

Dear Diane and Damaris,
I would like to set up a conference call with you both and Kevin Johnston on Wednesday afternoon (8/22/18) this week to follow up on the items discussed during our July 30, 2018 call.
We are available Wednesday anytime other than between 3:00 and 3:30 PM.

We would like to discuss the following matters:

- Payable penalty and SEP amount in Consent Judgment
- New single 130-foot flare construction – existing flare must be replaced
- Submission to NYSDEC of a modification application for the Town's Title V Permit to incorporate the new flare construction and operation and other new applicable requirements (Subpart WWW and NAAQS for SO2 emissions)
- Confirmation of use of the Town's January 2015 *Air Quality Impact Analysis Report* in support of the 130-foot flare design to achieve the 1-hour SO2 standard

Regarding the payable penalty amount in the draft Consent Judgment that you provided, the $441,055 figure you have included represents not only the $249,166 payable amount that the Town offered to EPA on May 25, 2016, but also the SEP portion ($191,889) the Town offered (see the Town's May 25, 2016 counteroffer attached). This counteroffer was in response to EPA's May 19, 2016 settlement offer of a payable penalty of $307,847 (see attached).

The parties bridged the gap of $58,679 in the payable penalty amount by the Town's offering to implement certain information transparency initiatives pursuant to EPA's November 14, 2012 "Mitigation as Injunctive Relief" policy. On my call with Jay Simpson on December 13, 2016, he confirmed that EPA accepted the Town's May 25 payable penalty offer and its offer of certain mitigation actions. We can discuss these actions during our call.

Best, Ginny

Virginia C. Robbins, Esq.
Environmental and Energy Practice Group
315.218.8182 Direct
315.218.8000 Alt
315.218.8100 Fax
315.569.4538 Cell
vrobbins@bsk.com
Bio

BOND SCHOENECK & KING ATTORNEYS

Commitment · Service · Value · Our Bond

One Lincoln Center, Syracuse, NY 13202-1355

This email is ONLY for the person(s) named in the message header. Unless otherwise indicated, it contains information that is confidential, privileged or exempt from disclosure under applicable law. If you have received it in error, please notify the sender of the error and delete the message.

Message

From: Cardile, Joseph [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=2587033BBBDE46808831027AB9347048-CARDILE, JOSEPH]
Sent: 7/9/2019 8:57:50 PM
To: Ritz, Phillip [Ritz.Phillip@epa.gov]

Ex. 5 AC/DP

From: Ritz, Phillip
Sent: Monday, July 08, 2019 5:57 PM
To: Cardile, Joseph <Cardile.Joseph@epa.gov>; Urdaz, Damaris <Urdaz.Damaris@epa.gov>

Ex. 5 AC/DP

From: Gregory Seher <gseher@acua.com>
Sent: Wednesday, February 10, 2016 12:30 PM
To: Floto, Erin
Cc: Cardile, Joseph; Ritz, Phillip; Malone, Kathleen
Subject: RE: ACUA SEP Information

Hello All,

Please see the attached project narrative on a potential SEP from the ACUA. Per our discussions you had indicated we should propose multiple SEP concepts, however based on project costs and other factors we have narrowed down to one project that would be realistic for us. I know this will be discussed further at the meeting tomorrow.

Thank you,

Greg Seher
Senior Analyst
Atlantic County Utilities Authority
Research and Development
Phone: 609 272 6935
Fax: 609 569 7387
gseher@acua.com
www.acua.com

From: Floto, Erin [mailto:Floto.Erin@epa.gov]
Sent: Friday, February 05, 2016 10:12 AM
To: Gregory Seher

Cc: Cardile, Joseph; Ritz, Phillip; Malone, Kathleen
Subject: RE: ACUA SEP Information

Phil mentioned 10:00am to me yesterday. I think they are planning on getting in touch with you Monday morning to set up the time. Most of my day is open on Monday so whatever you arrange with them I will make work on my end.

Erin Floto

From: Gregory Seher [mailto:gseher@acua.com]
Sent: Friday, February 05, 2016 10:07 AM
To: Floto, Erin <Floto.Erin@epa.gov>
Cc: Cardile, Joseph <Cardile.Joseph@epa.gov>; Ritz, Phillip <Ritz.Phillip@epa.gov>; Malone, Kathleen <Malone.Kathleen@epa.gov>
Subject: RE: ACUA SEP Information

Thanks for the information. Please advise what time would be good for a call next week. We have been kicking around a few CNG and solar ideas internally we could discuss with you.

Thanks again,

Greg Seher
Senior Analyst
Atlantic County Utilities Authority
Research and Development
Phone: 609 272 6935
Fax: 609 569 7387
gseher@acua.com
www.acua.com

From: Floto, Erin [mailto:Floto.Erin@epa.gov]
Sent: Friday, February 05, 2016 9:17 AM
To: Gregory Seher
Cc: Cardile, Joseph; Ritz, Phillip; Malone, Kathleen
Subject: ACUA SEP Information

Hello Greg,

It was good to speak with you Wednesday on possible SEPs and to give you a little bit more information on what they are and what qualifies. I put together a one-pager on the SEP policy to refer back to. I also included an informational sheet on a few SEPs options that have a sufficient nexus with emissions. I've included information and case studies for CNG vehicles, solar panels, food waste reduction program and advanced monitoring and transparency SEPs. If you have any questions or are interested in further materials or case studies for other projects, please let me know! I will be on the call on Monday to answer any questions you may have or you can email or call me here until 3:30. If you have other ideas I can also look up additional information if you would like.

Thank you,

Erin Floto

Physical Scientist, SEP Coordinator
Division of Enforcement and Compliance Assistance
Environmental Protection Agency
Office: (212) 637-4007

floto.erin@epa.gov

Message

From: Cardile, Joseph [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=2587033BBBDE46808831027AB9347048-CARDILE, JOSEPH]
Sent: 7/8/2019 6:55:39 PM
To: Ritz, Phillip [Ritz.Phillip@epa.gov]
Subject: FW: Brookhaven SEP

FYI…lets discuss.

From: Urdaz, Damaris
Sent: Monday, July 08, 2019 11:12 AM
To: Cardile, Joseph <Cardile.Joseph@epa.gov>; LaVigna, Gaetano <LaVigna.Gaetano@epa.gov>
Subject: Brookhaven SEP

Ex. 5 AC

Message

From: Cardile, Joseph [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=2587033BBBDE46808831027AB9347048-CARDILE, JOSEPH]
Sent: 9/10/2019 1:53:42 PM
To: Villatora, Liliana [Villatora.Liliana@epa.gov]; Ritz, Phillip [Ritz.Phillip@epa.gov]
CC: Buettner, Robert [Buettner.Robert@epa.gov]; LaVigna, Gaetano [LaVigna.Gaetano@epa.gov]
Subject: RE: brookhaven mitigation info for 10am : brookhaven - sep write up copy in word

Yes. Will do.

From: Villatora, Liliana <Villatora.Liliana@epa.gov>
Sent: Tuesday, September 10, 2019 9:50 AM
To: Cardile, Joseph <Cardile.Joseph@epa.gov>; Ritz, Phillip <Ritz.Phillip@epa.gov>
Subject: RE: brookhaven mitigation info for 10am : brookhaven - sep write up copy in word

Yes please – can you call me at Ex. 6 Personal Privacy (PP)

From: Cardile, Joseph
Sent: Tuesday, September 10, 2019 9:50 AM
To: Villatora, Liliana <Villatora.Liliana@epa.gov>; Ritz, Phillip <Ritz.Phillip@epa.gov>
Subject: RE: brookhaven mitigation info for 10am : brookhaven - sep write up copy in word

Phil and I can talk at 10 am. I think Robert and Guy will still be in a staff meeting. Should we call you?

From: Villatora, Liliana <Villatora.Liliana@epa.gov>
Sent: Tuesday, September 10, 2019 9:48 AM
To: Ritz, Phillip <Ritz.Phillip@epa.gov>; Cardile, Joseph <Cardile.Joseph@epa.gov>
Subject: RE: brookhaven mitigation info for 10am : brookhaven - sep write up copy in word

Ex. 5 AC/AWP/DP

From: Ritz, Phillip
Sent: Tuesday, September 10, 2019 9:33 AM
To: Villatora, Liliana <Villatora.Liliana@epa.gov>; Cardile, Joseph <Cardile.Joseph@epa.gov>
Subject: brookhaven mitigation info for 10am : brookhaven - sep write up copy in word

CONFIDENTIAL: This transmission may contain deliberative and/or enforcement confidential, attorney-client, or otherwise privileged material. Do not release under FOIA without appropriate review. If you have received this message in error, you are asked to notify the sender and to delete this message.

From: Ritz, Phillip
Sent: Wednesday, July 10, 2019 3:10 PM
To: Urdaz, Damaris <Urdaz.Damaris@epa.gov>
Subject: brookhaven - sep write up copy in word

Message

From: Cardile, Joseph [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=2587033BBBDE46808831027AB9347048-CARDILE, JOSEPH]
Sent: 8/27/2018 3:17:13 PM
To: LaVigna, Gaetano [LaVigna.Gaetano@epa.gov]
Subject: Ex. 5 AC

From: Jonesi, Gary
Sent: Tuesday, February 06, 2018 6:06 PM
To: Cardile, Joseph <Cardile.Joseph@epa.gov>; Buettner, Robert <Buettner.Robert@epa.gov>; Makepeace, Caroline <Makepeace.Caroline@epa.gov>; Villatora, Liliana <Villatora.Liliana@epa.gov>; LaVigna, Gaetano <LaVigna.Gaetano@epa.gov>; Urdaz, Damaris <Urdaz.Damaris@epa.gov>; Ritz, Phillip <Ritz.Phillip@epa.gov>
Cc: Williamson, Caroline <williamson.caroline@epa.gov>
Subject: Ex. 5 AC

Hi everyone. Good call today.

Ex. 5 AC

--Gary

Be kind to the environment.
Please do not print this email unless necessary.

Gary A. Jonesi
Office of Civil Enforcement
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W. (Rm. 4102-C)
Washington, D.C. 20004

202-564-4002 (direct)
703-304-6392 (cell)
jonesi.gary@epa.gov

-----Original Appointment-----
From: Cardile, Joseph
Sent: Thursday, February 01, 2018 5:59 PM
To: Cardile, Joseph; Buettner, Robert; Makepeace, Caroline; Villatora, Liliana; Jonesi, Gary; LaVigna, Gaetano; Urdaz, Damaris; Ritz, Phillip
Cc: Williamson, Caroline
Subject: Ex. 5 AC
When: Tuesday, February 06, 2018 4:00 PM-4:30 PM (UTC-05:00) Eastern Time (US & Canada).
Where: Conf Rm 2134A

1. Dial the toll-free Conference Number -
2. Enter your 5-digit Conference Extension -
3. If you are a participant press (2) -

Ex. 6 PP

Message

From: Cardile, Joseph [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=2587033BBBDE46808831027AB9347048-CARDILE, JOSEPH]
Sent: 8/28/2017 1:33:31 PM
To: Buettner, Robert [Buettner.Robert@epa.gov]; LaVigna, Gaetano [LaVigna.Gaetano@epa.gov]; Ritz, Phillip [Ritz.Phillip@epa.gov]
Subject: FW: Brookhaven Documents
Attachments:

Ex. 5 AC/AWP

FYI

From: Urdaz, Damaris
Sent: Monday, August 28, 2017 9:21 AM
To: Cardile, Joseph <Cardile.Joseph@epa.gov>
Subject: FW: Brookhaven Documents

From: Simpson, James
Sent: Thursday, July 20, 2017 12:19 PM
To: Urdaz, Damaris <Urdaz.Damaris@epa.gov>
Cc: Villatora, Liliana <Villatora.Liliana@epa.gov>
Subject: Brookhaven Documents

Hi Damaris:

Ex. 5 AC/AWP

Jay

James L. Simpson
Assistant Regional Counsel
U.S. EPA, Region 2
290 Broadway, 16th Floor
New York, New York 10007
212-637-3245 (direct)
Simpson.James@epa.gov

CONFIDENTIAL: This transmission may contain deliberative, attorney-client, attorney work product or otherwise

privileged material. Do not release under FOIA without appropriate review. If this message was sent to you in error, you are instructed to delete this message from your machine and all storage media whether electronic or hard copy.

Message

From: Cardile, Joseph [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=2587033BBBDE46808831027AB9347048-CARDILE, JOSEPH]
Sent: 7/16/2018 5:41:54 PM
To: Villatora, Liliana [Villatora.Liliana@epa.gov]
CC: Buettner, Robert [Buettner.Robert@epa.gov]; LaVigna, Gaetano [LaVigna.Gaetano@epa.gov]; Ritz, Phillip [Ritz.Phillip@epa.gov]
Subject: FW: Brookhaven Landfill Update....the file is locked

And here is a highlight we prepared after our call.

joe

From: Cardile, Joseph
Sent: Friday, February 09, 2018 10:30 AM
To: LaVigna, Gaetano <LaVigna.Gaetano@epa.gov>
Subject: Brookhaven Landfill Update....the file is locked

Ex. 5 DP/AC

Joseph Cardile, Environmental Engineer
Stationary Source Compliance Section
Air Compliance Branch
U.S. EPA, Region 2
290 Broadway, 21st Floor
New York, New York 10007-1866
Phone (212) 637-4054
Email: Cardile.Joseph@epa.gov

CONFIDENTIAL: This transmission may contain deliberative and/or enforcement confidential, attorney-client, or otherwise privileged material. Do not release under FOIA without appropriate review. If you have received this message in error, you are asked to notify the sender and to delete this message.

Message

From: Cardile, Joseph [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=2587033BBBDE46808831027AB9347048-CARDILE, JOSEPH]
Sent: 11/27/2017 1:57:04 PM
To: Ritz, Phillip [Ritz.Phillip@epa.gov]
CC: Buettner, Robert [Buettner.Robert@epa.gov]; LaVigna, Gaetano [LaVigna.Gaetano@epa.gov]
Subject: FW: Brookhaven SEP

Ex. 5 Attorney Client (AC)

Tx
Joe

From: Urdaz, Damaris
Sent: Wednesday, November 22, 2017 2:02 PM
To: Cardile, Joseph <Cardile.Joseph@epa.gov>
Cc: Villatora, Liliana <Villatora.Liliana@epa.gov>
Subject: Brookhaven SEP

Hi Joe---

Ex. 5 Attorney Client (AC)

Can you share that with me?

Much appreciated.

Message

From: Cardile, Joseph [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=2587033BBBDE46808831027AB9347048-CARDILE, JOSEPH]
Sent: 7/16/2018 5:38:33 PM
To: Villatora, Liliana [Villatora.Liliana@epa.gov]
CC: Buettner, Robert [Buettner.Robert@epa.gov]; LaVigna, Gaetano [LaVigna.Gaetano@epa.gov]; Ritz, Phillip [Ritz.Phillip@epa.gov]
Subject:
Attachments: Ex. 5 DP/AC

Hi Liliana,

Ex. 5 DP/AC

Joe

From: Cardile, Joseph
Sent: Monday, February 05, 2018 4:46 PM
To: Makepeace, Caroline <Makepeace.Caroline@epa.gov>
Cc: Buettner, Robert <Buettner.Robert@epa.gov>; Villatora, Liliana <Villatora.Liliana@epa.gov>; LaVigna, Gaetano <LaVigna.Gaetano@epa.gov>; Urdaz, Damaris <Urdaz.Damaris@epa.gov>; Ritz, Phillip <Ritz.Phillip@epa.gov>
Subject: Ex. 5 DP/AC

Ex. 5 DP/AC

Thx
Joe

Joseph Cardile, Environmental Engineer
Stationary Source Compliance Section
Air Compliance Branch
U.S. EPA, Region 2
290 Broadway, 21st Floor
New York, New York 10007-1866
Phone (212) 637-4054
Email: Cardile.Joseph@epa.gov

CONFIDENTIAL: This transmission may contain deliberative and/or enforcement confidential, attorney-client, or otherwise privileged material. Do not release under FOIA without appropriate review. If you have received this message in error, you are asked to notify the sender and to delete this message.

From: Makepeace, Caroline
Sent: Monday, February 05, 2018 2:38 PM
To: Cardile, Joseph <Cardile.Joseph@epa.gov>
Subject: Ex. 5 DP/AC

Hi Joe,

Ex. 5 DP/AC

Caroline Makepeace
Senior Counsel
Crosscutting Policy Staff
Office of Civil Enforcement
US Environmental Protection Agency
202-564-6012

This may contain enforcement confidential or privileged material. Do not release without appropriate review. If you have received this message in error, please inform the sender, and promptly delete.

From: Cardile, Joseph
Sent: Thursday, February 01, 2018 6:18 PM
To: Makepeace, Caroline <Makepeace.Caroline@epa.gov>
Cc: Jonesi, Gary <Jonesi.Gary@epa.gov>; Buettner, Robert <Buettner.Robert@epa.gov>; Villatora, Liliana <Villatora.Liliana@epa.gov>; Urdaz, Damaris <Urdaz.Damaris@epa.gov>; Ritz, Phillip <Ritz.Phillip@epa.gov>
Subject Ex. 5 DP/AC

Ex. 5 DP/AC

Thx
Joe

Joseph Cardile, Environmental Engineer
Stationary Source Compliance Section
Air Compliance Branch
U.S. EPA, Region 2
290 Broadway, 21st Floor
New York, New York 10007-1866
Phone (212) 637-4054
Email: Cardile.Joseph@epa.gov

CONFIDENTIAL: This transmission may contain deliberative and/or enforcement confidential, attorney-client, or otherwise privileged material. Do not release under FOIA without appropriate review. If you have received this message in error, you are asked to notify the sender and to delete this message.

From: Ritz, Phillip
Sent: Thursday, February 01, 2018 6:14 PM
To: Cardile, Joseph <Cardile.Joseph@epa.gov>
Subject: Ex. 5 DP/AC

From: Simpson, James
Sent: Thursday, April 13, 2017 3:35 PM
To: Ritz, Phillip <Ritz.Phillip@epa.gov>; LaVigna, Gaetano <LaVigna.Gaetano@epa.gov>; Buettner, Robert <Buettner.Robert@epa.gov>
Cc: Villatora, Liliana <Villatora.Liliana@epa.gov>
Subject: Ex. 5 DP/AC

Ex. 5 DP/AC

Regards,
Jay

From: Robbins, Virginia [mailto:RobbinV@bsk.com]
Sent: Thursday, April 13, 2017 12:39 PM
To: Simpson, James <Simpson.James@epa.gov>
Cc: Beckmann, Diane (USANYE) <Diane.Beckmann@usdoj.gov>; Kevin Johnston <kjohnston@brookhavenny.gov>; Michael J. Cahill <MJC@GermanoCahill.com>; Tyson, Robert <TysonR@BSK.com>
Subject: SETTLEMENT CONFIDENTIAL - Town of Brookhaven and Wehran Energy Corp. - SEP

Dear Jay,
On behalf of the Town of Brookhaven and Wehran Energy, please find attached for USEPA's review and comment our letter dated today detailing the estimated costs and task schedule for the proposed Supplemental Environmental Project involving the installation of a solar energy conversion system by the Town.
I am available to discuss this letter at your convenience.
Best, Ginny

Virginia C. Robbins, Esq.
Environmental and Energy Practice Group
315.218.8182 Direct
315.218.8000 Alt
315.218.8100 Fax
315.569.4538 Cell
vrobbins@bsk.com
Bio

BOND SCHOENECK & KING ATTORNEYS
Commitment · Service · Value · Our Bond
One Lincoln Center, Syracuse, NY 13202-1355
This email is ONLY for the person(s) named in the message header. Unless otherwise indicated, it contains information that is confidential, privileged or exempt from disclosure under applicable law. If you have received it in error, please notify the sender of the error and delete the message.

Message

From: Cardile, Joseph [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=2587033BBBDE46808831027AB9347048-CARDILE, JOSEPH]
Sent: 1/11/2018 3:22:16 PM
To: Froikin, Sara [Froikin.Sara@epa.gov]
Subject: Ex. 5 DP/AC

Hi Sara,

Ex. 5 DP/AC

From: Makepeace, Caroline
Sent: Thursday, January 11, 2018 9:46 AM
To: Cardile, Joseph <Cardile.Joseph@epa.gov>
Cc: Buettner, Robert <Buettner.Robert@epa.gov>; Villatora, Liliana <Villatora.Liliana@epa.gov>; LaVigna, Gaetano <LaVigna.Gaetano@epa.gov>; Urdaz, Damaris <Urdaz.Damaris@epa.gov>; Ritz, Phillip <Ritz.Phillip@epa.gov>; Jonesi, Gary <Jonesi.Gary@epa.gov>
Subject: Ex. 5 DP/AC

Ex. 5 DP/AC

Thanks,
Caroline

Caroline Makepeace
Senior Counsel
Crosscutting Policy Staff
Office of Civil Enforcement
US Environmental Protection Agency
202-564-6012

This may contain enforcement confidential or privileged material. Do not release without appropriate review. If you have received this message in error, please inform the sender, and promptly delete.

From: Cardile, Joseph
Sent: Thursday, January 11, 2018 9:43 AM
To: Makepeace, Caroline <Makepeace.Caroline@epa.gov>
Cc: Buettner, Robert <Buettner.Robert@epa.gov>; Villatora, Liliana <Villatora.Liliana@epa.gov>; LaVigna, Gaetano <LaVigna.Gaetano@epa.gov>; Urdaz, Damaris <Urdaz.Damaris@epa.gov>; Ritz, Phillip <Ritz.Phillip@epa.gov>; Jonesi, Gary <Jonesi.Gary@epa.gov>
Subject: Ex. 5 DP/AC

Hi Caroline,

Ex. 5 DP/AC

Thx
Joe

Joseph Cardile, Environmental Engineer
Stationary Source Compliance Section
Air Compliance Branch
U.S. EPA, Region 2
290 Broadway, 21st Floor
New York, New York 10007-1866
Phone (212) 637-4054
Email: Cardile.Joseph@epa.gov

CONFIDENTIAL: This transmission may contain deliberative and/or enforcement confidential, attorney-client, or otherwise privileged material. Do not release under FOIA without appropriate review. If you have received this message in error, you are asked to notify the sender and to delete this message.

From: Makepeace, Caroline
Sent: Wednesday, January 10, 2018 4:00 PM
To: Cardile, Joseph <Cardile.Joseph@epa.gov>
Cc: Buettner, Robert <Buettner.Robert@epa.gov>; Villatora, Liliana <Villatora.Liliana@epa.gov>; LaVigna, Gaetano <LaVigna.Gaetano@epa.gov>; Urdaz, Damaris <Urdaz.Damaris@epa.gov>; Ritz, Phillip <Ritz.Phillip@epa.gov>; Jonesi, Gary <Jonesi.Gary@epa.gov>
Subject: Ex. 5 DP/AC

Hi Joe, et al.,

Ex. 5 DP/AC

Caroline Makepeace
Senior Counsel
Crosscutting Policy Staff
Office of Civil Enforcement
US Environmental Protection Agency
202-564-6012

This may contain enforcement confidential or privileged material. Do not release without appropriate review. If you have received this message in error, please inform the sender, and promptly delete.

From: Cardile, Joseph
Sent: Wednesday, January 10, 2018 3:29 PM
To: Makepeace, Caroline <Makepeace.Caroline@epa.gov>
Cc: Buettner, Robert <Buettner.Robert@epa.gov>; Villatora, Liliana <Villatora.Liliana@epa.gov>; LaVigna, Gaetano <LaVigna.Gaetano@epa.gov>; Urdaz, Damaris <Urdaz.Damaris@epa.gov>; Ritz, Phillip <Ritz.Phillip@epa.gov>
Subject: Ex. 5 DP/AC

Hi Caroline,

Ex. 5 DP/AC

Thx
Joe

Joseph Cardile, Environmental Engineer
Stationary Source Compliance Section
Air Compliance Branch
U.S. EPA, Region 2
290 Broadway, 21st Floor
New York, New York 10007-1866
Phone (212) 637-4054
Email: Cardile.Joseph@epa.gov

CONFIDENTIAL: This transmission may contain deliberative and/or enforcement confidential, attorney-client, or otherwise privileged material. Do not release under FOIA without appropriate review. If you have received this message in error, you are asked to notify the sender and to delete this message.

Appointment

From: Cardile, Joseph [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=2587033BBBDE46808831027AB9347048-CARDILE, JOSEPH]
Sent: 2/5/2018 8:43:05 PM
To: Buettner, Robert [Buettner.Robert@epa.gov]; Makepeace, Caroline [Makepeace.Caroline@epa.gov]; Villatora, Liliana [Villatora.Liliana@epa.gov]; Jonesi, Gary [Jonesi.Gary@epa.gov]; LaVigna, Gaetano [LaVigna.Gaetano@epa.gov]; Urdaz, Damaris [Urdaz.Damaris@epa.gov]; Ritz, Phillip [Ritz.Phillip@epa.gov]
CC: Williamson, Caroline [williamson.caroline@epa.gov]

Subject: Brookhaven SEP Discussion
Location: Conf Rm 2134A

Start: 2/6/2018 9:00:00 PM
End: 2/6/2018 9:30:00 PM
Show Time As: Tentative

Ex. 6 Personal Privacy (PP)

Message

From: Cardile, Joseph [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=2587033BBBDE46808831027AB9347048-CARDILE, JOSEPH]
Sent: 11/13/2018 7:55:57 PM
To: Buettner, Robert [Buettner.Robert@epa.gov]
CC: LaVigna, Gaetano [LaVigna.Gaetano@epa.gov]
Subject: RE: questions about EPA's SEP Policy

Ex. 5 Deliberative Process (DP)

Joe

-----Original Message-----
From: Buettner, Robert
Sent: Tuesday, November 13, 2018 2:53 PM
To: Cardile, Joseph <Cardile.Joseph@epa.gov>
Cc: LaVigna, Gaetano <LaVigna.Gaetano@epa.gov>
Subject: FW: questions about EPA's SEP Policy

Ex. 5 Deliberative Process (DP)

Robert Buettner
Chief, Air Compliance Branch

US EPA Region 2 DECA/ACB
290 Broadway, 21st Floor
New York NY 10007

buettner.robert@epa.gov
(212) 637 5031

CONFIDENTIAL: This transmission may contain deliberative and/or enforcement confidential, attorney-client, or otherwise privileged material. Do not release under FOIA without appropriate review. If you have received this message in error, you are asked to notify the sender and to delete this message.

-----Original Message-----
From: Leong, Denise
Sent: Tuesday, November 13, 2018 2:38 PM
To: Buettner, Robert <Buettner.Robert@epa.gov>
Subject: FW: questions about EPA's SEP Policy

fyi

Denise Leong
U.S. Environmental Protection Agency, Region 2 Office of Regional Counsel, Air Branch
290 Broadway, 16th Floor
New York, NY 10007
Phone: (212) 637-3214
Fax: (212) 637-3199

Note: This transmission may contain confidential communications, attorney work product, enforcement sensitive, attorney-client and/or other privileged materials. Do not release under FOIA without appropriate review. If this message was sent to you in error, you must delete it and not print, copy re-transmit, disseminate, or otherwise use the information.

-----Original Message-----
From: Cho, James (USANYE) <James.Cho@usdoj.gov>
Sent: Tuesday, November 13, 2018 11:47 AM
To: Leong, Denise <Leong.Denise@epa.gov>
Cc: LaVigna, Gaetano <LaVigna.Gaetano@epa.gov>; Villatora, Liliana <Villatora.Liliana@epa.gov>
Subject: Fwd: questions about EPA's SEP Policy

See updated email below.

James R. Cho
Assistant U.S. Attorney

U.S. Attorney's Office
Eastern District of New York
271-A Cadman Plaza East, 7th floor<x-apple-data-detectors://9/0>
Brooklyn, New York 11201<x-apple-data-detectors://9/0>
718-254-6519<tel:718-254-6519> (direct)
718-254-7483<tel:718-254-7483> (fax)
james.cho@usdoj.gov<mailto:james.cho@usdoj.gov>

Begin forwarded message:

From: Eli Eilbott <EDE@dwgp.com<mailto:EDE@dwgp.com>>
Date: November 13, 2018 at 11:33:30 AM EST
To: "James.Cho@usdoj.gov<mailto:James.Cho@usdoj.gov>" <James.Cho@usdoj.gov<mailto:James.Cho@usdoj.gov>>
Subject: RE: questions about EPA's SEP Policy

PRIVILEGED AND CONFIDENTIAL
FOR SETTLEMENT PURPOSES ONLY
NOT ADMISSIBLE PURSUANT TO F.R.E. 408

Actually, re-reading the SEP Policy language quoted in my question no 1 below, I believe my figure of $80K is not correct, since I added 10% of the economic benefit component when it should be 10% of the gravity component. I believe that translates into approximately $88,000 ($72K for the economic benefit component, plus 10% of the $159K gravity component). So, a SEP would seem to make even less sense, assuming the foregoing is correct.

From: Eli Eilbott
Sent: Tuesday, November 13, 2018 11:21 AM
To: James.Cho@usdoj.gov<mailto:James.Cho@usdoj.gov>
Subject: questions about EPA's SEP Policy
Importance: High

PRIVILEGED AND CONFIDENTIAL
FOR SETTLEMENT PURPOSES ONLY
NOT ADMISSIBLE PURSUANT TO F.R.E. 408

Mr. Cho,

Thanks again for this past Friday's meeting with the Village of Rockville Centre. Since that time we've been reviewing EPA's SEP policy, which I believe was most recently updated in March 2015, according to this info: https://www.epa.gov/sites/production/files/2015-04/documents/sepupdatedpolicy15.pdf

The Village had a few questions for your team regarding how a potential SEP implemented by the Village as part of a settlement of the Feb. 2012 NOV might work. Because Mr. Andreas will be meeting with the Village Trustees this Thursday to discuss this matter and because EPA and the Village are scheduled to meet again on Nov. 27, I would greatly appreciate it if you/EPA could clarify the following by COB tomorrow if at all possible:

1. As I read Section IX.B.1 of the Policy, at page 21, where a settlement includes a SEP, the amount of the penalty must be equal to the greater of (a) the economic benefit of noncompliance plus ten percent of the gravity component, or (b) twenty-five percent of the gravity component. During Friday's meeting, I believe that Guy stated that EPA assigned $72,000 for the economic benefit component, and $159,000 for the gravity component. If I heard him correctly, and if I'm reading the SEP Policy correctly, that would seem to mean that, regardless of whatever amount the Village might spend on an acceptable SEP, the final settlement of the NOV would still have to include a cash payment of a penalty of at least $80,000 ($72K plus 10%). Is the foregoing correct? If so, given what I understood EPA's position on the "floor" of an acceptable penalty as stated to us towards the end of the Nov. 9 meeting, it would seem to me that there would be, at best, only minimal value to the Village to invest in a SEP for purposes of settling the NOV.

2. At the top of p.24 of the Policy, in Section IX.C, it states that "The amount of penalty mitigation given for a SEP should be equivalent to a percentage of the estimated cost to implement the SEP and should not exceed eighty percent (80%) of that estimated cost." Further down on that same page, however, it provides that "For defendants that are . . . government agencies or entities . . . the penalty mitigation amount may be set as high as one hundred percent (100%) of the estimated SEP cost, if the defendant can demonstrate the project is of outstanding quality." Footnote 33 on that page, in turn, states "Outstanding quality may be based on how well a SEP meets and exceeds one or more of the evaluation criteria described in Section VIII, as well as on relevant case-specific factors." To help the Village better understand the possibility that a potential SEP it might implement would earn a 100% penalty mitigation, could EPA provide any more concrete information on what it might consider a SEP of "outstanding quality"? I realize the Policy states this is a case-by-case determination, but any additional info EPA could provide on this point would be helpful.

3. In Section X at page 25 of the Policy, it states that certain project-related costs must be excluded from the portion of the SEP eligible for penalty mitigation. The Policy states that "Examples of costs to consider that are generally not appropriate for inclusion include: overhead; additional employee time and salary; administrative expenses; most legal fees; and contractor oversight." I'm struggling to understand those examples, since they seem quite broad. If Village employees implement a SEP within the Village boundaries, would the Village's cost for that employee labor be considered "additional" time and salary and thus completely excluded from the mitigation eligibility? Would the only mitigation-eligible costs of such a project be parts/materials/equipment? And can EPA shed light on how broad or narrow the definition of "administration expenses" is in that portion of the Policy?

4. Section XII.A.2 at page 36 of the Policy seems to provide EPA with discretion in a particular settlement to exempt the proposed SEP from one or more requirements of the Policy. There it states as follows: "In all cases including a SEP which may not fully comply with the provisions of this Policy (e.g., the proposed settlement penalty is less than the minimum required penalty) . . . the settlement and the SEP must be approved by the Assistant Administrator for OECA." If I'm reading that catch-all exception correctly, EPA would have the discretion, for example, to accept a penalty payment by the Village at a level lower than what would seem otherwise required by the section of the Policy that I quote in my question 1 above. At what point in the SEP review process would EPA make such a decision?

Lastly, a question not directed to the SEP Policy. Specifically, to what extent, if any, would EPA allow the Village to pay the penalty portion of a settlement in installments (e.g., payment of one-quarter the total penalty each year for four consecutive years) as opposed to requiring the Village to make a one-time upfront payment of the entire penalty?

Thank you in advance for your assistance with this. Again, given the meeting with the Trustees this Thursday, we'd greatly appreciate receiving EPA's responses to the foregoing by COB tomorrow if possible.

Eli

Eli D. Eilbott

[Description: Description: cid:YMHZYIOFYWWM.IMAGE_28.png]

1615 M Street NW | Suite 800 | Washington, DC 20036
(202) 467-6370 | ede@dwgp.com<mailto:ede@dwgp.com> www.dwgp.com<http://www.dwgp.com/>

This communication is from a law firm and may contain confidential and/or privileged information. If it has been sent to you in error, please contact the sender for instructions concerning return or destruction, and do not use or disclose the contents to others.

Message

From: Cardile, Joseph [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=2587033BBBDE46808831027AB9347048-CARDILE, JOSEPH]
Sent: 9/12/2019 7:14:19 PM
To: Ritz, Phillip [Ritz.Phillip@epa.gov]; LaVigna, Gaetano [LaVigna.Gaetano@epa.gov]; Villatora, Liliana [Villatora.Liliana@epa.gov]
CC: Buettner, Robert [Buettner.Robert@epa.gov]; Patel, Harish [Patel.Harish@epa.gov]
Subject: Ex. 5 DP/AC
Attachments:

Ex. 5 DP/AC

Joe

From: Ritz, Phillip <Ritz.Phillip@epa.gov>
Sent: Thursday, September 12, 2019 1:16 PM
To: LaVigna, Gaetano <LaVigna.Gaetano@epa.gov>; Villatora, Liliana <Villatora.Liliana@epa.gov>; Cardile, Joseph <Cardile.Joseph@epa.gov>
Cc: Buettner, Robert <Buettner.Robert@epa.gov>
Subject: Ex. 5 DP/AC

Ex. 5 DP/AC

CONFIDENTIAL: This transmission may contain deliberative and/or enforcement confidential, attorney-client, or otherwise privileged material. Do not release under FOIA without appropriate review. If you have received this message in error, you are asked to notify the sender and to delete this message.

From: LaVigna, Gaetano <LaVigna.Gaetano@epa.gov>
Sent: Thursday, September 12, 2019 1:08 PM
To: Villatora, Liliana <Villatora.Liliana@epa.gov>; Cardile, Joseph <Cardile.Joseph@epa.gov>; Ritz, Phillip <Ritz.Phillip@epa.gov>
Cc: Buettner, Robert <Buettner.Robert@epa.gov>
Subject: Ex. 5 DP/AC

Ex. 5 DP/AC

Gaetano La Vigna, Chief
Stationary Source Compliance Section

Air Compliance Branch
U.S. EPA Region 2
290 Broadway, 21st Floor
New York, New York 10007-1866
Phone (212) 637-4069
Email LaVigna.Gaetano@epa.gov

CONFIDENTIAL: This transmission may contain deliberative and/or enforcement confidential, attorney-client, or otherwise privileged material. Do not release under FOIA without appropriate review. If you have received this message in error, you are asked to notify the sender and to delete this message.

From: Villatora, Liliana <Villatora.Liliana@epa.gov>
Sent: Thursday, September 12, 2019 12:41 PM
To: Cardile, Joseph <Cardile.Joseph@epa.gov>; Ritz, Phillip <Ritz.Phillip@epa.gov>; LaVigna, Gaetano <LaVigna.Gaetano@epa.gov>
Cc: Buettner, Robert <Buettner.Robert@epa.gov>
Subject: Ex. 5 DP/AC

Ex. 5 DP/AC

From: Makepeace, Caroline
Sent: Thursday, September 12, 2019 12:39 PM
To: Villatora, Liliana <Villatora.Liliana@epa.gov>; Rae, Sarah <Rae.Sarah@epa.gov>
Cc: Denton, Loren <Denton.Loren@epa.gov>
Subject: Ex. 5 DP/AC

Hi Ladies,

Ex. 5 DP/AC

Thanks!!!

Caroline Makepeace
Senior Counsel
Office of Civil Enforcement
US Environmental Protection Agency
202-564-6012

This may contain enforcement confidential or privileged material. Do not release without appropriate review. If you have received this message in error, please inform the sender, and promptly delete.

Message

From: Cardile, Joseph [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=2587033BBBDE46808831027AB9347048-CARDILE, JOSEPH]
Sent: 11/13/2018 7:44:49 PM
To: Lonergan, Ralph [Lonergan.Ralph@epa.gov]
Subject: FW: questions about EPA's SEP Policy
Attachments: image001.png

-----Original Message-----
From: Kan, Richard
Sent: Tuesday, November 13, 2018 2:39 PM
To: Buettner, Robert <Buettner.Robert@epa.gov>
Cc: Cardile, Joseph <Cardile.Joseph@epa.gov>
Subject: FW: questions about EPA's SEP Policy

Robert,

Rockville Center's attorney provided several questions below concerning SEPs. They mentioned that they will be meeting with their Board of Trustees this Thurs and was hoping for answers to their questions for that meeting.

-Richard

-----Original Message-----
From: Leong, Denise
Sent: Tuesday, November 13, 2018 2:02 PM
To: Kan, Richard <Kan.Richard@epa.gov>
Subject: FW: questions about EPA's SEP Policy

fyi

Denise Leong
U.S. Environmental Protection Agency, Region 2 Office of Regional Counsel, Air Branch
290 Broadway, 16th Floor
New York, NY 10007
Phone: (212) 637-3214
Fax: (212) 637-3199

Note: This transmission may contain confidential communications, attorney work product, enforcement sensitive, attorney-client and/or other privileged materials. Do not release under FOIA without appropriate review. If this message was sent to you in error, you must delete it and not print, copy re-transmit, disseminate, or otherwise use the information.

-----Original Message-----
From: Cho, James (USANYE) <James.Cho@usdoj.gov>
Sent: Tuesday, November 13, 2018 11:47 AM
To: Leong, Denise <Leong.Denise@epa.gov>
Cc: LaVigna, Gaetano <LaVigna.Gaetano@epa.gov>; Villatora, Liliana <Villatora.Liliana@epa.gov>
Subject: Fwd: questions about EPA's SEP Policy

See updated email below.

James R. Cho
Assistant U.S. Attorney
U.S. Attorney's Office
Eastern District of New York
271-A Cadman Plaza East, 7th floor<x-apple-data-detectors://9/0>
Brooklyn, New York 11201<x-apple-data-detectors://9/0>
718-254-6519<tel:718-254-6519> (direct)
718-254-7483<tel:718-254-7483> (fax)
james.cho@usdoj.gov<mailto:james.cho@usdoj.gov>

Begin forwarded message:

From: Eli Eilbott <EDE@dwgp.com<mailto:EDE@dwgp.com>>
Date: November 13, 2018 at 11:33:30 AM EST
To: "James.Cho@usdoj.gov<mailto:James.Cho@usdoj.gov>" <James.Cho@usdoj.gov<mailto:James.Cho@usdoj.gov>>

Subject: RE: questions about EPA's SEP Policy

PRIVILEGED AND CONFIDENTIAL
FOR SETTLEMENT PURPOSES ONLY
NOT ADMISSIBLE PURSUANT TO F.R.E. 408

Actually, re-reading the SEP Policy language quoted in my question no 1 below, I believe my figure of Ex. 7(A) is not correct, since I added 10% of the economic benefit component when it should be 10% of the gravity component. I believe that translates into approximately Ex. 7(A) for the economic benefit component, plus 10% of the Ex. 7(A) gravity component). So, a SEP would seem to make even less sense, assuming the foregoing is correct.

From: Eli Eilbott
Sent: Tuesday, November 13, 2018 11:21 AM
To: James.Cho@usdoj.gov<mailto:James.Cho@usdoj.gov>
Subject: questions about EPA's SEP Policy
Importance: High

PRIVILEGED AND CONFIDENTIAL
FOR SETTLEMENT PURPOSES ONLY
NOT ADMISSIBLE PURSUANT TO F.R.E. 408

Mr. Cho,

Thanks again for this past Friday's meeting with the Village of Rockville Centre. Since that time we've been reviewing EPA's SEP policy, which I believe was most recently updated in March 2015, according to this info: https://www.epa.gov/sites/production/files/2015-04/documents/sepupdatedpolicy15.pdf

The Village had a few questions for your team regarding how a potential SEP implemented by the Village as part of a settlement of the Feb. 2012 NOV might work. Because Mr. Andreas will be meeting with the Village Trustees this Thursday to discuss this matter and because EPA and the Village are scheduled to meet again on Nov. 27, I would greatly appreciate it if you/EPA could clarify the following by COB tomorrow if at all possible:

1. As I read Section IX.B.1 of the Policy, at page 21, where a settlement includes a SEP, the amount of the penalty must be equal to the greater of (a) the economic benefit of noncompliance plus ten percent of the gravity component, or (b) twenty-five percent of the gravity component. Ex. 7(A)

Ex. 7(A)

2. At the top of p.24 of the Policy, in Section IX.C, it states that "The amount of penalty mitigation given for a SEP should be equivalent to a percentage of the estimated cost to implement the SEP and should not exceed eighty percent (80%) of that estimated cost." Further down on that same page, however, it provides that "For defendants that are . . . government agencies or entities . . . the penalty mitigation amount may be set as high as one hundred percent (100%) of the estimated SEP cost, if the defendant can demonstrate the project is of outstanding quality." Footnote 33 on that page, in turn, states "Outstanding quality may be based on how well a SEP meets and exceeds one or more of the evaluation criteria described in Section VIII, as well as on relevant case-specific factors." To help the Village better understand the possibility that a potential SEP it might implement would earn a 100% penalty mitigation, could EPA provide any more concrete information on what it might consider a SEP of " outstanding quality"? I realize the Policy states this is a case-by-case determination, but any additional info EPA could provide on this point would be helpful.

3. In Section X at page 25 of the Policy, it states that certain project-related costs must be excluded from the portion of the SEP eligible for penalty mitigation. The Policy states that "Examples of costs to consider that are generally not appropriate for inclusion include: overhead; additional employee time and salary; administrative expenses; most legal fees; and contractor oversight." I'm struggling to understand those examples, since they seem quite broad. If Village employees implement a SEP within the Village boundaries, would the Village's cost for that employee labor be considered " additional" time and salary and thus completely excluded from the mitigation eligibility? Would the only mitigation-eligible costs of such a project be parts/materials/equipment? And can EPA shed light on how broad or narrow the definition of "administration expenses" is in that portion of the Policy?

4. Section XII.A.2 at page 36 of the Policy seems to provide EPA with discretion in a particular settlement to exempt the proposed SEP from one or more requirements of the Policy. There it states as follows: "In all cases including a SEP which may not fully comply with the provisions of this Policy (e.g., the proposed settlement penalty is less than the minimum required penalty) . . . the settlement and the SEP must be approved by the Assistant Administrator for OECA." If I'm reading that catch-all exception correctly, EPA would have the discretion, for example, to accept a penalty payment by the Village at a level lower than what would seem otherwise required by the section of the Policy that I quote in my question 1 above. At what point in the SEP review process would EPA make such a decision?

Lastly, a question not directed to the SEP Policy. Specifically, to what extent, if any, would EPA allow the Village to pay the penalty portion of a settlement in installments (e.g., payment of one-quarter the total penalty each year for four consecutive years) as opposed to requiring the Village to make a one-time upfront payment of the entire penalty?

Thank you in advance for your assistance with this. Again, given the meeting with the Trustees this Thursday, we'd greatly appreciate receiving EPA's responses to the foregoing by COB tomorrow if possible.

Eli

Eli D. Eilbott

[Description: Description: cid:YMHZYIOFYWWM.IMAGE_28.png]

1615 M Street NW | Suite 800 | Washington, DC 20036
(202) 467-6370 | ede@dwgp.com<mailto:ede@dwgp.com> www.dwgp.com<http://www.dwgp.com/>

This communication is from a law firm and may contain confidential and/or privileged information. If it has been sent to you in error, please contact the sender for instructions concerning return or destruction, and do not use or disclose the contents to others.

Message

From: Cardile, Joseph [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=2587033BBBDE46808831027AB9347048-CARDILE, JOSEPH]
Sent: 1/10/2018 8:29:29 PM
To: Makepeace, Caroline [Makepeace.Caroline@epa.gov]
CC: Buettner, Robert [Buettner.Robert@epa.gov]; Villatora, Liliana [Villatora.Liliana@epa.gov]; LaVigna, Gaetano [LaVigna.Gaetano@epa.gov]; Urdaz, Damaris [Urdaz.Damaris@epa.gov]; Ritz, Phillip [Ritz.Phillip@epa.gov]
Subject:
Attachments: Ex. 5 DP/AC

Hi Caroline,

Ex. 5 DP/AC

Thx
Joe

Joseph Cardile, Environmental Engineer
Stationary Source Compliance Section
Air Compliance Branch
U.S. EPA, Region 2
290 Broadway, 21st Floor
New York, New York 10007-1866
Phone (212) 637-4054
Email: Cardile.Joseph@epa.gov

CONFIDENTIAL: This transmission may contain deliberative and/or enforcement confidential, attorney-client, or otherwise privileged material. Do not release under FOIA without appropriate review. If you have received this message in error, you are asked to notify the sender and to delete this message.

BOND SCHOENECK & KING

One Lincoln Center | Syracuse, NY 13202-1355 | bsk.com

VIRGINIA C. ROBBINS
vrobbins@bsk.com
P: 315-218-8182

April 13, 2017

SETTLEMENT CONFIDENTIAL

BY ELECTRONIC AND FIRST CLASS MAIL

James L. Simpson, Esq.
Assistant Regional Counsel
U.S. Environmental Protection Agency
Region 2
290 Broadway, 16th Floor
New York, NY 10007-1866

Re: *Town of Brookhaven and Wehran Energy Corp.*
Supplemental Environmental Project

Dear Jay:

On behalf of the Town of Brookhaven ("Town") and Wehran Energy Corp., this letter and attachments provide details regarding the Supplemental Environmental Project ("SEP") proposed to be included as a component of an overall settlement of the Clean Air Act ("CAA") violations asserted by the U.S. Environmental Protection Agency ("EPA") concerning the Town's landfill facility.

As we have previously discussed, the Town proposes to implement a SEP consisting of the installation of a solar energy conversion system on its planned mechanics garage and repair shop ("Shop"). The system will include solar panels to be installed on the Shop roof, an inverter, and other components needed to power the Town's operations and also to send excess electricity to the grid using net metering. The system is projected to be approximately 120 kW (DC) and to include 350 solar panels. The Town believes this SEP satisfies the nexus requirements relating to the alleged CAA violations because by generating renewable solar energy, the Town will avoid the emission of greenhouse gases that otherwise would be emitted as a result of the generation of electricity using fossil fuels.

There are a number of qualified vendors who are able to provide the necessary system equipment. At the present time, the Town anticipates the renewable energy equipment will consist of the following (estimated costs are in parentheses):

- Modules/Panels ($62,000)
- Inverters ($14,000)

- Racking ($18,000)
- Balance of Equipment ($45,000)
- Freight/Shipping ($15,000)
- Engineering ($20,000)
- Construction Scope ($126,000)

The estimated total price for the purchase and installation of a solar energy conversion system is $300,000. Due to the planned net metering, the applicable utility, PSE&G, will specify interconnection requirements that may result in the imposition of additional costs that cannot be determined at this time. For these reasons, the Town's cost information is necessarily preliminary, and subject to refinement as it moves forward.

In terms of schedule for SEP implementation and completion, the Town will have to comply with public bidding requirements, and after selection of a qualified vendor, there will be discussions with PSE&G to understand its requirements. Once agreement with PSE&G is obtained, equipment can be ordered. Consequently, to provide for the possibility of delays over which the Town would have no control, and also to facilitate the setup and initial testing of the equipment at the Shop, the Town proposes to complete the SEP within approximately thirty-six months (36) months of the execution of a final Consent Decree. This time frame takes into account all contingencies that the Town is currently aware of with the recognition that other contingencies may arise.

Proposed Task Schedule		
	Task	Time Frame
1	Public Bidding for Project	4 months
2	Vendor Selection by Town Board	2 months
3	Engineering Design	3 months
4	Request to PSE&G for Interconnection Approval	1 month
5	Discussions with PSE&G about Interconnection Requirements	2 months
6	Submission to PSE&G of Design for Interconnection	2 months
7	PSE&G Interconnection Approval Obtained and Agreement Executed	10 months
8	Order Solar Project Equipment	1 month
9	Construction of Interconnection Upgrades and Inspection by PSE&G	4 months
10	Solar Panel Installation on Garage Roof	4 months
11	Testing	1 month
12	Interconnection Startup	1 month
	Total	**35 months**

These time estimates may have to be extended with respect to actions dependent upon PSE&G review and approval. We have estimated 15 months to obtain utility concurrence and approval. It is possible this time frame will be double our estimate. The Town will commit to an outer time frame of 36 months for PSE&G approval. If the Town has not received approval from PSE&G within 36 months, the Town will construct the project as a "behind the meter" project and continue to pursue interconnection with PSE&G, but will proceed with ordering equipment and construction without having approval in place for the net metering option.

Upon full implementation of the SEP, the Town will submit a SEP Completion Report to EPA that describes the equipment, its installation and operation.

If there is additional information regarding the SEP that EPA requires, or if you have any questions, please call.

Sincerely,

BOND, SCHOENECK & KING, PLLC

Virginia C. Robbins

cc: Kevin R. Johnston, Esq.
Michael J. Cahill, Esq.

2790670.5 4/12/2017

Message

From: Cardile, Joseph [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=2587033BBBDE46808831027AB9347048-CARDILE, JOSEPH]
Sent: 8/16/2019 7:26:59 PM
To: Velez, Julian [velez.julian@epa.gov]
Subject: Brookhaven highlight

Ex. 5 AC/DP

Message

From: Cardile, Joseph [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=2587033BBBDE46808831027AB9347048-CARDILE, JOSEPH]
Sent: 1/8/2018 6:56:35 PM
To: Buettner, Robert [Buettner.Robert@epa.gov]
CC: LaVigna, Gaetano [LaVigna.Gaetano@epa.gov]; Ritz, Phillip [Ritz.Phillip@epa.gov]
Subject: Brookhaven SEP Update
Attachments: Simpson Ltr.pdf

Ex. 5 AC/DP

Joe

Message

From: Cardile, Joseph [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=2587033BBBDE46808831027AB9347048-CARDILE, JOSEPH]
Sent: 8/14/2019 10:46:40 PM
To: LaVigna, Gaetano [LaVigna.Gaetano@epa.gov]; Ritz, Phillip [Ritz.Phillip@epa.gov]
CC: Buettner, Robert [Buettner.Robert@epa.gov]
Subject: Revised Brookhaven Bottom-line penalty writeup for review/comment per our discussions today
Attachments: Brookhaven Proposed Civil Penalty final 8.14.19.docx

Message

From: Cardile, Joseph [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=2587033BBBDE46808831027AB9347048-CARDILE, JOSEPH]
Sent: 8/12/2019 3:25:01 PM
To: Ritz, Phillip [Ritz.Phillip@epa.gov]
Subject: FW: Ex. 5 Attorney Client (AC)

FYI

From: Buettner, Robert <Buettner.Robert@epa.gov>
Sent: Monday, August 12, 2019 10:44 AM
To: McHale, Mary <McHale.Mary@epa.gov>; Cardile, Joseph <Cardile.Joseph@epa.gov>; Villatora, Liliana <Villatora.Liliana@epa.gov>; Urdaz, Damaris <Urdaz.Damaris@epa.gov>; Leong, Denise <Leong.Denise@epa.gov>; LaVigna, Gaetano <LaVigna.Gaetano@epa.gov>
Subject: Ex. 5 Attorney Client (AC)

Ex. 6 Personal Privacy (PP)

Ex. 5 Attorney Client (AC)

Scheduled: Monday, Aug 12, 2019 from 11:30 AM to 12:00 PM
Location: Ex. 6 Personal Privacy (PP)
Invitees: McHale, Mary, Cardile, Joseph, Villatora, Liliana, Urdaz, Damaris, Leong, Denise, LaVigna, Gaetano

Robert Buettner,
Chief, Air Compliance Branch
US EPA Region 2 DECA/ACB
290 Broadway, 21st Floor
New York NY 10007
buettner.robert@epa.gov
(212) 637 5031
CONFIDENTIAL: This transmission may contain deliberative and/or enforcement confidential, attorney-client, or otherwise privileged material. Do not release under FOIA without appropriate review. If you have received this message in error, you are asked to notify the sender and to delete this message.

Message

From: Cardile, Joseph [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=2587033BBBDE46808831027AB9347048-CARDILE, JOSEPH]
Sent: 5/23/2018 9:54:40 PM
To: Ritz, Phillip [Ritz.Phillip@epa.gov]
CC: Buettner, Robert [Buettner.Robert@epa.gov]; Villatora, Liliana [Villatora.Liliana@epa.gov]; LaVigna, Gaetano [LaVigna.Gaetano@epa.gov]; Urdaz, Damaris [Urdaz.Damaris@epa.gov]
Subject: RE: Brookhaven CD - DUE DATE
Attachments: Brookhaven.CJ.Draft 5.7.17 gljc.docx

Hi Folks,

Ex. 5 DP/AC/AWP

Thx

Joe

Joseph Cardile, Environmental Engineer
Stationary Source Compliance Section
Air Compliance Branch
U.S. EPA, Region 2
290 Broadway, 21st Floor
New York, New York 10007-1866
Phone (212) 637-4054
Email: Cardile.Joseph@epa.gov

CONFIDENTIAL: This transmission may contain deliberative and/or enforcement confidential, attorney-client, or otherwise privileged material. Do not release under FOIA without appropriate review. If you have received this message in error, you are asked to notify the sender and to delete this message.

From: Ritz, Phillip
Sent: Thursday, March 22, 2018 11:33 AM
To: Villatora, Liliana; Cardile, Joseph; Urdaz, Damaris
Subject: FW: Brookhaven CD - DUE DATE

FYI

From: LaVigna, Gaetano
Sent: Wednesday, May 31, 2017 3:36 PM
To: Simpson, James <Simpson.James@epa.gov>; Buettner, Robert <Buettner.Robert@epa.gov>; Ritz, Phillip <Ritz.Phillip@epa.gov>
Cc: Villatora, Liliana <Villatora.Liliana@epa.gov>
Subject: RE: Brookhaven CD - DUE DATE

See attached comments

Gaetano La Vigna, Chief
Stationary Source Compliance Section
Air Compliance Branch
U.S. EPA Region 2
290 Broadway, 21st Floor
New York, New York 10007-1866
Phone (212) 637-4069
Email LaVigna.Gaetano@epa.gov

CONFIDENTIAL: This transmission may contain deliberative and/or enforcement confidential, attorney-client, or otherwise privileged material. Do not release under FOIA without appropriate review. If you have received this message in error, you are asked to notify the sender and to delete this message.

From: Simpson, James
Sent: Friday, May 19, 2017 11:53 AM
To: Buettner, Robert <Buettner.Robert@epa.gov>; LaVigna, Gaetano <LaVigna.Gaetano@epa.gov>; Ritz, Phillip <Ritz.Phillip@epa.gov>
Cc: Villatora, Liliana <Villatora.Liliana@epa.gov>
Subject: Brookhaven CD - DUE DATE
Importance: High

Hello folks,

Ex. 5 DP/AC/AWP

Regards,
Jay

James L. Simpson
Assistant Regional Counsel
U.S. EPA, Region 2
290 Broadway, 16th Floor
New York, New York 10007
212-637-3245 (direct)
Simpson.James@epa.gov

CONFIDENTIAL: This transmission may contain deliberative, attorney-client, attorney work product or otherwise privileged material. Do not release under FOIA without appropriate review. If this message was sent to you in error, you are instructed to delete this message from your machine and all storage media whether electronic or hard copy.

Please consider the environment before printing this email.

Message

From: Cardile, Joseph [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=2587033BBBDE46808831027AB9347048-CARDILE, JOSEPH]
Sent: 11/14/2018 6:56:00 PM
To: Patel, Harish [Patel.Harish@epa.gov]
Subject: FW: questions about EPA's SEP Policy - in BLUE

From: LaVigna, Gaetano
Sent: Wednesday, November 14, 2018 1:55 PM
To: Leong, Denise <Leong.Denise@epa.gov>
Cc: Villatora, Liliana <Villatora.Liliana@epa.gov>; Buettner, Robert <Buettner.Robert@epa.gov>; Kan, Richard <Kan.Richard@epa.gov>; Cardile, Joseph <Cardile.Joseph@epa.gov>
Subject: Re: questions about EPA's SEP Policy - in BLUE

Ex. 5 Attorney Client (AC)

Sent from my iPhone

On Nov 14, 2018, at 1:10 PM, Leong, Denise <Leong.Denise@epa.gov> wrote:

Ex. 5 Attorney Client (AC)

Thanks, Denise

From: LaVigna, Gaetano
Sent: Wednesday, November 14, 2018 12:58 PM
To: Villatora, Liliana <Villatora.Liliana@epa.gov>
Cc: Leong, Denise <Leong.Denise@epa.gov>; Buettner, Robert <Buettner.Robert@epa.gov>; Kan, Richard <Kan.Richard@epa.gov>; Cardile, Joseph <Cardile.Joseph@epa.gov>
Subject: Re: questions about EPA's SEP Policy - in BLUE

Ex. 5 Attorney Client (AC)

Sent from my iPhone

On Nov 14, 2018, at 11:24 AM, Villatora, Liliana <Villatora.Liliana@epa.gov> wrote:

Ex. 5 Attorney Client (AC)

From: Leong, Denise
Sent: Wednesday, November 14, 2018 11:21 AM
To: Buettner, Robert <Buettner.Robert@epa.gov>; LaVigna, Gaetano <LaVigna.Gaetano@epa.gov>; Kan, Richard <Kan.Richard@epa.gov>; Cardile, Joseph <Cardile.Joseph@epa.gov>
Cc: Villatora, Liliana <Villatora.Liliana@epa.gov>
Subject: FWD: questions about EPA's SEP Policy - in BLUE

Ex. 5 Attorney Client (AC)

-----Original Message-----
From: Cho, James (USANYE) <James.Cho@usdoj.gov>
Sent: Tuesday, November 13, 2018 11:47 AM
To: Leong, Denise <Leong.Denise@epa.gov>
Cc: LaVigna, Gaetano <LaVigna.Gaetano@epa.gov>; Villatora, Liliana <Villatora.Liliana@epa.gov>
Subject: Fwd: questions about EPA's SEP Policy

See updated email below.

James R. Cho
Assistant U.S. Attorney
U.S. Attorney's Office
Eastern District of New York
271-A Cadman Plaza East, 7th floor<x-apple-data-detectors://9/0>
Brooklyn, New York 11201<x-apple-data-detectors://9/0>
718-254-6519<tel:718-254-6519> (direct)
718-254-7483<tel:718-254-7483> (fax)
james.cho@usdoj.gov<mailto:james.cho@usdoj.gov>

Begin forwarded message:

From: Eli Eilbott <EDE@dwgp.com<mailto:EDE@dwgp.com>>
Date: November 13, 2018 at 11:33:30 AM EST
To: "James.Cho@usdoj.gov<mailto:James.Cho@usdoj.gov>" <James.Cho@usdoj.gov<mailto:James.Cho@usdoj.gov>>
Subject: RE: questions about EPA's SEP Policy

PRIVILEGED AND CONFIDENTIAL
FOR SETTLEMENT PURPOSES ONLY

NOT ADMISSIBLE PURSUANT TO F.R.E. 408

Actually, re-reading the SEP Policy language quoted in my question no 1 below, I believe my figure of Ex. 7(A) is not correct, since I added 10% of the economic benefit component when it should be 10% of the gravity component. I believe that translates into approximately Ex. 7(A) for the economic benefit component, plus 10% of the $159K gravity component). So, a SEP would seem to make even less sense, assuming the foregoing is correct.

Ex. 5 AC/DP

From: Eli Eilbott
Sent: Tuesday, November 13, 2018 11:21 AM
To: James.Cho@usdoj.gov<mailto:James.Cho@usdoj.gov>
Subject: questions about EPA's SEP Policy
Importance: High

PRIVILEGED AND CONFIDENTIAL
FOR SETTLEMENT PURPOSES ONLY
NOT ADMISSIBLE PURSUANT TO F.R.E. 408

Mr. Cho,

Thanks again for this past Friday's meeting with the Village of Rockville Centre. Since that time we've been reviewing EPA's SEP policy, which I believe was most recently updated in March 2015, according to this info: https://www.epa.gov/sites/production/files/2015-04/documents/sepupdatedpolicy15.pdf

The Village had a few questions for your team regarding how a potential SEP implemented by the Village as part of a settlement of the Feb. 2012 NOV might work. Because Mr. Andreas will be meeting with the Village Trustees this Thursday to discuss this matter and because EPA and the Village are scheduled to meet again on Nov. 27, I would greatly appreciate it if you/EPA could clarify the following by COB tomorrow if at all possible:

1. As I read Section IX.B.1 of the Policy, at page 21, where a settlement includes a SEP, the amount of the penalty must be equal to the greater of (a) the economic benefit of noncompliance plus ten percent of the gravity component, or (b) twenty-five percent of the gravity component. Ex. 7(A) assigned $72,000 for the economic benefit component, and $159,000 for the gravity component. If I heard him correctly, and if I'm reading the SEP Policy correctly, that would seem to mean that, regardless of whatever amount the Village might spend on an acceptable SEP, the final settlement of the NOV would still have to include a cash payment of a penalty of at least $80,000 ($72K plus 10%). Is the foregoing correct? If so, given what I understood EPA's position on the "floor" of an acceptable penalty as stated to us towards the end of the Nov. 9 meeting, it would seem to me that there

Ex. 7(A)

Ex. 5 AC/AWP/DP

2. At the top of p.24 of the Policy, in Section IX.C, it states that "The amount of penalty mitigation given for a SEP should be equivalent to a percentage of the estimated cost to implement the SEP and should not exceed eighty percent (80%) of that estimated cost." Further down on that same page, however, it provides that "For defendants that are . . . government agencies or entities . . . the penalty mitigation amount may be set as high as one hundred percent (100%) of the estimated SEP cost, if the defendant can demonstrate the project is of outstanding quality." Footnote 33 on that page, in turn, states "Outstanding quality may be based on how well a SEP meets and exceeds one or more of the evaluation criteria described in Section VIII, as well as on relevant case-specific factors." To help the Village better understand the possibility that a potential SEP it might implement would earn a 100% penalty mitigation, could EPA provide any more concrete information on what it might consider a SEP of "outstanding quality"? I realize the Policy states this is a case-by-case determination, but any additional info EPA could provide on this point would be helpful.

Ex. 5 AC/AWP/DP

3. In Section X at page 25 of the Policy, it states that certain project-related costs must be excluded from the portion of the SEP eligible for penalty mitigation. The Policy states that "Examples of costs to consider that are generally not appropriate for inclusion include: overhead; additional employee time and salary; administrative expenses; most legal fees; and contractor oversight." I'm struggling to understand those examples, since they seem quite broad. If Village employees implement a SEP within the Village boundaries, would the Village's cost for that employee labor be considered "additional" time and salary and thus completely excluded from the mitigation eligibility? Would the only mitigation-eligible costs of such a project be parts/materials/equipment? And can EPA shed light on how broad or narrow the definition of "administration expenses" is in that portion of the Policy?

All direct labor and materials cost associated with completing the SEP should count towards the value of the SEP, including hiring contractors or contractors performing the work. However, labor cost incurred by an internal Rockville employee to monitor the SEP progress or monitor contractors should not be considered part of the SEP cost.

4. Section XII.A.2 at page 36 of the Policy seems to provide EPA with discretion in a particular settlement to exempt the proposed SEP from one or more requirements of the Policy. There it states as follows: "In all cases including a SEP which may not fully comply with the provisions of this Policy (e.g., the proposed settlement penalty is less than the minimum required penalty) . . . the settlement and the SEP must be approved by the Assistant Administrator for OECA." If I'm reading that catch-all exception correctly, EPA would have the discretion, for example, to accept a penalty payment by the Village at a level lower than what would seem otherwise required by the section of the Policy that I quote in my question 1 above. At what point in the SEP review process would EPA make such a decision?

Ex. 5 AC/AWP/DP

Lastly, a question not directed to the SEP Policy. Specifically, to what extent, if any, would EPA allow the Village to pay the penalty portion of a settlement in installments (e.g., payment of one-quarter the total penalty each year for four consecutive years) as opposed to requiring the Village to make a one-time upfront payment of the entire penalty?

Ex. 5 AC/AWP/DP

Thank you in advance for your assistance with this. Again, given the meeting with the Trustees this Thursday, we'd greatly appreciate receiving EPA's responses to the foregoing by COB tomorrow if possible.

Eli

Eli D. Eilbott

[Description: Description: cid:YMHZYIOFYWWM.IMAGE_28.png]

1615 M Street NW | Suite 800 | Washington, DC 20036
(202) 467-6370 | ede@dwgp.com<mailto:ede@dwgp.com>
www.dwgp.com<http://www.dwgp.com/>

This communication is from a law firm and may contain confidential and/or privileged information. If it has been sent to you in error, please contact the sender for instructions concerning return or destruction, and do not use or disclose the contents to others.

Message

From: Cardile, Joseph [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=2587033BBBDE46808831027AB9347048-CARDILE, JOSEPH]
Sent: 8/9/2019 2:53:24 PM
To: Buettner, Robert [Buettner.Robert@epa.gov]; Villatora, Liliana [Villatora.Liliana@epa.gov]; LaVigna, Gaetano [LaVigna.Gaetano@epa.gov]; Urdaz, Damaris [Urdaz.Damaris@epa.gov]
CC: McHale, Mary [McHale.Mary@epa.gov]; Leong, Denise [Leong.Denise@epa.gov]; Ritz, Phillip [Ritz.Phillip@epa.gov]
Subject: Revised Brookhaven Penalty Calculation for Monday's Call/Discussion
Attachments: Brookhaven Penalty 2019-07-26 Rev no SEP.xlsx

Hi Folks,

Ex. 5 DP/AC

Thx
Joe

Joseph Cardile, Environmental Engineer
Stationary Source Compliance Section
Air Compliance Branch
U.S. EPA, Region 2
290 Broadway, 21st Floor
New York, New York 10007-1866
Phone (212) 637-4054
Email: Cardile.Joseph@epa.gov

CONFIDENTIAL: This transmission may contain deliberative and/or enforcement confidential, attorney-client, or otherwise privileged material. Do not release under FOIA without appropriate review. If you have received this message in error, you are asked to notify the sender and to delete this message.

Appointment

From: Cardile, Joseph [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=2587033BBBDE46808831027AB9347048-CARDILE, JOSEPH]
Sent: 8/8/2019 1:05:04 PM
To: Buettner, Robert [Buettner.Robert@epa.gov]

Subject: Accepted: Ex. 5 Attorney Client (AC)
Location: Robert's office

Start: 8/12/2019 3:30:00 PM
End: 8/12/2019 4:00:00 PM
Show Time As: Busy

Message

From: Cardile, Joseph [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=2587033BBBDE46808831027AB9347048-CARDILE, JOSEPH]
Sent: 7/12/2019 11:18:00 PM
To: Buettner, Robert [Buettner.Robert@epa.gov]
Subject: FW: Brookhaven
Attachments: RA-Briefing-Doc-1.docx

fyi

From: Urdaz, Damaris
Sent: Thursday, July 11, 2019 3:38 PM
To: Cardile, Joseph <Cardile.Joseph@epa.gov>
Subject: Brookhaven

Ex. 5 AC/AWP

Message

From: Murphy, Kara [Murphy.Kara@epa.gov]
Sent: 11/21/2018 1:49:24 PM
To: McKenna, Douglas [McKenna.Douglas@epa.gov]
CC: Feinmark, Phyllis [Feinmark.Phyllis@epa.gov]; Modigliani, Justine [Modigliani.Justine@epa.gov]; Mann, Katherine [Mann.Katherine@epa.gov]; Murphy, Kara [Murphy.Kara@epa.gov]
Subject: RE: Northport Update

Got it. Thanks Doug.
Happy Thanksgiving everyone!

From: McKenna, Douglas
Sent: Wednesday, November 21, 2018 8:02 AM
To: Murphy, Kara <Murphy.Kara@epa.gov>
Cc: Feinmark, Phyllis <Feinmark.Phyllis@epa.gov>; Modigliani, Justine <Modigliani.Justine@epa.gov>; Mann, Katherine <Mann.Katherine@epa.gov>
Subject: Re: Northport Update

Ex. 5 Deliberative Process (DP) & Attorney-Client (AC)

On Nov 21, 2018, at 7:59 AM, McKenna, Douglas <McKenna.Douglas@epa.gov> wrote:

Ex. 5 Deliberative Process (DP) & Attorney-Client (AC)

On Nov 21, 2018, at 7:21 AM, Murphy, Kara <Murphy.Kara@epa.gov> wrote:

Ex. 5 Deliberative Process (DP) & Attorney-Client (AC)

Ex. 5 Deliberative Process (DP) & Attorney-Client (AC)

Thanks

Kara E. Murphy
Assistant Regional Counsel
U.S. EPA, Region 2
290 Broadway, 16th Floor
New York, NY 10007
(212) 637-3211 (Phone)
(212) 637-3202 (Fax)

Note: This transmission may contain confidential communications, attorney work product, enforcement sensitive, attorney-client and/or other privileged materials. Do not release under FOIA without appropriate review. If this message was sent to you in error, you must delete it and not print, copy re-transmit, disseminate, or otherwise use the information.

<image001.png>

Message

From: Murphy, Kara [Murphy.Kara@epa.gov]
Sent: 6/28/2019 7:22:59 PM
To: Makepeace, Caroline [Makepeace.Caroline@epa.gov]
CC: Green, Katherine [Green.Katherine@epa.gov]; Modigliani, Justine [Modigliani.Justine@epa.gov]; Murphy, Kara [Murphy.Kara@epa.gov]; Feinmark, Phyllis [Feinmark.Phyllis@epa.gov]; McKenna, Douglas [McKenna.Douglas@epa.gov]
Subject:
Attachments:

Ex. 5 Deliberative Process (DP) & Attorney-Client (AC)

Hi Caroline –

Ex. 5 Deliberative Process (DP) & Attorney-Client (AC)

Thanks

Kara E. Murphy
Assistant Regional Counsel
U.S. EPA, Region 2
290 Broadway, 16th Floor
New York, NY 10007
(212) 637-3211 (Phone)
(212) 637-3202 (Fax)

Note: This transmission may contain confidential communications, attorney work product, enforcement sensitive, attorney-client and/or other privileged materials. Do not release under FOIA without appropriate review. If this message was sent to you in error, you must delete it and not print, copy re-transmit, disseminate, or otherwise use the information.

Message

From: Murphy, Kara [Murphy.Kara@epa.gov]
Sent: 6/28/2019 12:49:36 PM
To: Simon, Paul [Simon.Paul@epa.gov]
CC: Feinmark, Phyllis [Feinmark.Phyllis@epa.gov]; Schaaf, Eric [Schaaf.Eric@epa.gov]; Murphy, Kara [Murphy.Kara@epa.gov]
Subject: RE: Northport

Ex. 5 - Attorney-Client (AC)

Thanks

-----Original Message-----
From: Simon, Paul
Sent: Friday, June 28, 2019 7:39 AM
To: Murphy, Kara <Murphy.Kara@epa.gov>
Cc: Feinmark, Phyllis <Feinmark.Phyllis@epa.gov>; Schaaf, Eric <Schaaf.Eric@epa.gov>
Subject: Northport

Kara - I am out today but can you pls send Eric and me an email today that tells us:

Ex. 5 - Attorney-Client (AC)

Thanks.

Sent from my iPhone

Message

From: Zwany, Deborah (USANYE) [Deborah.Zwany@usdoj.gov]
Sent: 6/27/2019 6:50:40 PM
To: Murphy, Kara [Murphy.Kara@epa.gov]
CC: Feinmark, Phyllis [Feinmark.Phyllis@epa.gov]; McKenna, Douglas [McKenna.Douglas@epa.gov]; Modigliani, Justine [Modigliani.Justine@epa.gov]; Green, Katherine [Green.Katherine@epa.gov]
Subject: Re: Ex. 5 Deliberative Process (DP)

Ex. 5 - Attorney-Client (AC)

On Jun 27, 2019, at 12:02 PM, Murphy, Kara <Murphy.Kara@epa.gov<mailto:Murphy.Kara@epa.gov>> wrote:

Ex. 5 - Attorney-Client (AC)

From: Zwany, Deborah (USANYE) <Deborah.Zwany@usdoj.gov<mailto:Deborah.Zwany@usdoj.gov>>
Sent: Wednesday, June 26, 2019 4:04 PM
To: Murphy, Kara <Murphy.Kara@epa.gov<mailto:Murphy.Kara@epa.gov>>
Cc: Feinmark, Phyllis <Feinmark.Phyllis@epa.gov<mailto:Feinmark.Phyllis@epa.gov>>; McKenna, Douglas <McKenna.Douglas@epa.gov<mailto:McKenna.Douglas@epa.gov>>; Modigliani, Justine <Modigliani.Justine@epa.gov<mailto:Modigliani.Justine@epa.gov>>; Green, Katherine <Green.Katherine@epa.gov<mailto:Green.Katherine@epa.gov>>
Subject: RE: Ex. 5 Deliberative Process (DP)

Ex. 5 - Attorney-Client (AC)

From: Murphy, Kara <Murphy.Kara@epa.gov<mailto:Murphy.Kara@epa.gov>>
Sent: Wednesday, June 26, 2019 3:52 PM
To: Zwany, Deborah (USANYE) <DZwany@usa.doj.gov<mailto:DZwany@usa.doj.gov>>
Cc: Feinmark, Phyllis <Feinmark.Phyllis@epa.gov<mailto:Feinmark.Phyllis@epa.gov>>; McKenna, Douglas <McKenna.Douglas@epa.gov<mailto:McKenna.Douglas@epa.gov>>; Modigliani, Justine <Modigliani.Justine@epa.gov<mailto:Modigliani.Justine@epa.gov>>; Green, Katherine <Green.Katherine@epa.gov<mailto:Green.Katherine@epa.gov>>; Murphy, Kara <Murphy.Kara@epa.gov<mailto:Murphy.Kara@epa.gov>>
Subject: RE: Ex. 5 Deliberative Process (DP)

Thanks Deborah.

Ex. 5 - Attorney-Client (AC)

Be in touch soon.

Thanks

From: Zwany, Deborah (USANYE) <Deborah.Zwany@usdoj.gov<mailto:Deborah.Zwany@usdoj.gov>>
Sent: Wednesday, June 26, 2019 1:26 PM
To: Murphy, Kara <Murphy.Kara@epa.gov<mailto:Murphy.Kara@epa.gov>>
Subject: Ex. 5 Deliberative Process (DP)

Ex. 5 - Attorney-Client (AC)

Deborah B. Zwany
Senior Litigation Counsel
United States Attorney's Office
Eastern District of New York
271A Cadman Plaza East
Brooklyn, New York 11201
718-254-6010

Message

From: Simon, Paul [Simon.Paul@epa.gov]
Sent: 5/16/2019 1:09:49 PM
To: Feinmark, Phyllis [Feinmark.Phyllis@epa.gov]; Villatora, Liliana [Villatora.Liliana@epa.gov]; Jordan-garcia, Carolina [Jordan-Garcia.Carolina@epa.gov]
Subject: Time-sensitive: CDs with SEPs

Importance: High

Ex. 5 Attorney Client (AC)

Thanks

Message

From: Zwany, Deborah (USANYE) [Deborah.Zwany@usdoj.gov]
Sent: 5/28/2019 9:29:26 PM
To: Green, Katherine [Green.Katherine@epa.gov]
CC: Feinmark, Phyllis [Feinmark.Phyllis@epa.gov]; Murphy, Kara [Murphy.Kara@epa.gov]; McKenna, Douglas [McKenna.Douglas@epa.gov]; Modigliani, Justine [Modigliani.Justine@epa.gov]
Subject: RE: Northport

Thanks Katherine.

From: Green, Katherine <Green.Katherine@epa.gov>
Sent: Tuesday, May 28, 2019 5:27 PM
To: Zwany, Deborah (USANYE) <DZwany@usa.doj.gov>
Cc: Feinmark, Phyllis <Feinmark.Phyllis@epa.gov>; Murphy, Kara <Murphy.Kara@epa.gov>; McKenna, Douglas <McKenna.Douglas@epa.gov>; Modigliani, Justine <Modigliani.Justine@epa.gov>
Subject: RE: Northport

Hi Deborah,

Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)

-Katherine

From: Feinmark, Phyllis
Sent: Tuesday, May 28, 2019 4:14 PM
To: McKenna, Douglas <McKenna.Douglas@epa.gov>
Cc: Zwany, Deborah (USANYE) <Deborah.Zwany@usdoj.gov>; Modigliani, Justine <Modigliani.Justine@epa.gov>; Green, Katherine <Green.Katherine@epa.gov>; Murphy, Kara <Murphy.Kara@epa.gov>
Subject: RE: Northport

Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)

From: McKenna, Douglas
Sent: Tuesday, May 28, 2019 3:55 PM
To: Feinmark, Phyllis <Feinmark.Phyllis@epa.gov>
Cc: Zwany, Deborah (USANYE) <Deborah.Zwany@usdoj.gov>; Modigliani, Justine <Modigliani.Justine@epa.gov>; Green, Katherine <Green.Katherine@epa.gov>; Murphy, Kara <Murphy.Kara@epa.gov>
Subject: Re: Northport

Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)

On May 28, 2019, at 3:41 PM, Feinmark, Phyllis <Feinmark.Phyllis@epa.gov> wrote:

Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)

From: McKenna, Douglas
Sent: Tuesday, May 28, 2019 3:37 PM
To: Zwany, Deborah (USANYE) <Deborah.Zwany@usdoj.gov>
Cc: Modigliani, Justine <Modigliani.Justine@epa.gov>; Green, Katherine <Green.Katherine@epa.gov>; Feinmark, Phyllis <Feinmark.Phyllis@epa.gov>; Murphy, Kara <Murphy.Kara@epa.gov>
Subject: Re: Northport

Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)

On May 28, 2019, at 3:24 PM, Zwany, Deborah (USANYE) <Deborah.Zwany@usdoj.gov> wrote:

Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC) Thanks.

From: Gallagher, Mark (ENRD) <MGallagher@ENRD.USDOJ.GOV>
Sent: Tuesday, May 28, 2019 3:22 PM
To: Zwany, Deborah (USANYE) <DZwany@usa.doj.gov>
Cc: Silverman, Matthew (USANYE) <MSilverman@usa.doj.gov>
Subject: Re: Northport

Hi Deborah

Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)

M

On May 28, 2019, at 3:10 PM, Zwany, Deborah (USANYE) <Deborah.Zwany@usdoj.gov> wrote:

Karen and Caroline,

Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)

Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)

Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)

Thanks again,

Deborah

From: Dworkin, Karen (ENRD) <KDworkin@ENRD.USDOJ.GOV>
Sent: Friday, May 24, 2019 3:04 PM
To: Zwany, Deborah (USANYE) <DZwany@usa.doj.gov>; makepeace.caroline@epa.gov
Cc: Gallagher, Mark (ENRD) <MGallagher@ENRD.USDOJ.GOV>; Silverman, Matthew (USANYE) <MSilverman@usa.doj.gov>; Vagelatos, John (USANYE) <JVagelatos@usa.doj.gov>; Feinmark, Phyllis (Feinmark.Phyllis@epa.gov) <Feinmark.Phyllis@epa.gov>; Murphy, Kara <Murphy.Kara@epa.gov>
Subject: RE: Northport

Thanks Deborah!

From: Zwany, Deborah (USANYE) <Deborah.Zwany@usdoj.gov>
Sent: Friday, May 24, 2019 3:02 PM
To: Dworkin, Karen (ENRD) <KDworkin@ENRD.USDOJ.GOV>; makepeace.caroline@epa.gov
Cc: Gallagher, Mark (ENRD) <MGallagher@ENRD.USDOJ.GOV>; Silverman, Matthew (USANYE) <MSilverman@usa.doj.gov>; Vagelatos, John (USANYE) <JVagelatos@usa.doj.gov>; Feinmark, Phyllis (Feinmark.Phyllis@epa.gov)

<Feinmark.Phyllis@epa.gov>; Murphy, Kara <Murphy.Kara@epa.gov>
Subject: RE: Northport

Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)

From: Zwany, Deborah (USANYE)
Sent: Friday, May 24, 2019 8:58 AM
To: Dworkin, Karen (ENRD) (Karen.Dworkin@usdoj.gov) <Karen.Dworkin@usdoj.gov>; 'makepeace.caroline@epa.gov' <makepeace.caroline@epa.gov>
Cc: Gallagher, Mark (ENRD) <Mark.Gallagher1@usdoj.gov>; Silverman, Matthew (USANYE) <MSilverman@usa.doj.gov>; Vagelatos, John (USANYE) <JVagelatos@usa.doj.gov>; Feinmark, Phyllis (Feinmark.Phyllis@epa.gov) <Feinmark.Phyllis@epa.gov>; 'Murphy, Kara' <Murphy.Kara@epa.gov>
Subject: Northport

Hello all,

I will be taking this case over from John Vagelatos. John is transferring to our Criminal Division in a couple of weeks. **Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)**

Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)

Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC) Have a nice Memorial Day weekend.

Deborah

Deborah B. Zwany
Senior Litigation Counsel
United States Attorney's Office
Eastern District of New York
271 Cadman Plaza East
Brooklyn, New York 11201
(718) 254-6010

On May 23, 2019, at 11:53 AM, Silverman, Matthew (USANYE) <MSilverman@usa.doj.gov> wrote:

> Please see below for more context.
>
> Truly,
> Matthew Silverman
> Assistant U.S. Attorney, EDNY
>
> Begin forwarded message:
>
> > **From:** "Gallagher, Mark (ENRD)" <MGallagher@ENRD.USDOJ.GOV>
> > **Date:** May 23, 2019 at 11:46:39 AM EDT

To: "Dworkin, Karen (ENRD)" <KDworkin@ENRD.USDOJ.GOV>, "Beckmann, Diane (USANYE)" <DBeckmann@usa.doj.gov>, "Silverman, Matthew (USANYE)" <MSilverman@usa.doj.gov>
Cc: "Makepeace, Caroline" <Makepeace.Caroline@epa.gov>
Subject: Re: Bookhaven and Northport

Diane and Matt

Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)

(I'm on a short vacation, and not always easily available)

-Mark

On May 23, 2019, at 10:40 AM, Dworkin, Karen (ENRD) <KDworkin@enrd.usdoj.gov> wrote:

Mark – **Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)**

Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)

Thanks Mark.

Message

From: McKenna, Douglas [McKenna.Douglas@epa.gov]
Sent: 6/14/2019 2:06:24 AM
To: Zwany, Deborah (USANYE) [Deborah.Zwany@usdoj.gov]
CC: Murphy, Kara [Murphy.Kara@epa.gov]; Modigliani, Justine [Modigliani.Justine@epa.gov]; Feinmark, Phyllis [Feinmark.Phyllis@epa.gov]; Green, Katherine [Green.Katherine@epa.gov]
Subject: Re: Northport

Yes

On Jun 13, 2019, at 8:32 PM, Zwany, Deborah (USANYE) <Deborah.Zwany@usdoj.gov> wrote:

Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)

From: Zwany, Deborah (USANYE)
Sent: Thursday, June 13, 2019 8:28 PM
To: 'Murphy, Kara' <Murphy.Kara@epa.gov>; Modigliani, Justine <Modigliani.Justine@epa.gov>; Feinmark, Phyllis <Feinmark.Phyllis@epa.gov>
Cc: McKenna, Douglas <McKenna.Douglas@epa.gov>; Green, Katherine <Green.Katherine@epa.gov>
Subject: RE: Northport

Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)

Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC) Thanks.

From: Murphy, Kara <Murphy.Kara@epa.gov>
Sent: Tuesday, June 11, 2019 1:39 PM
To: Zwany, Deborah (USANYE) <DZwany@usa.doj.gov>; Modigliani, Justine <Modigliani.Justine@epa.gov>; Feinmark, Phyllis <Feinmark.Phyllis@epa.gov>
Cc: McKenna, Douglas <McKenna.Douglas@epa.gov>; Green, Katherine <Green.Katherine@epa.gov>; Murphy, Kara <Murphy.Kara@epa.gov>
Subject: RE: Northport

Hi Deborah **Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)** Thanks!

From: Zwany, Deborah (USANYE) <Deborah.Zwany@usdoj.gov>
Sent: Friday, May 31, 2019 9:45 AM
To: Modigliani, Justine <Modigliani.Justine@epa.gov>; Feinmark, Phyllis <Feinmark.Phyllis@epa.gov>
Cc: McKenna, Douglas <McKenna.Douglas@epa.gov>; Green, Katherine <Green.Katherine@epa.gov>; Murphy, Kara <Murphy.Kara@epa.gov>
Subject: RE: Northport

Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)

Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC) Have a good weekend.

From: Modigliani, Justine <Modigliani.Justine@epa.gov>
Sent: Wednesday, May 29, 2019 7:13 AM
To: Feinmark, Phyllis <Feinmark.Phyllis@epa.gov>
Cc: McKenna, Douglas <McKenna.Douglas@epa.gov>; Zwany, Deborah (USANYE)

<DZwany@usa.doj.gov>; Green, Katherine <Green.Katherine@epa.gov>; Murphy, Kara <Murphy.Kara@epa.gov>
Subject: Re: Northport

Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)

Sent from my iPhone

On May 28, 2019, at 4:14 PM, Feinmark, Phyllis <Feinmark.Phyllis@epa.gov> wrote:

Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)

From: McKenna, Douglas
Sent: Tuesday, May 28, 2019 3:55 PM
To: Feinmark, Phyllis <Feinmark.Phyllis@epa.gov>
Cc: Zwany, Deborah (USANYE) <Deborah.Zwany@usdoj.gov>; Modigliani, Justine <Modigliani.Justine@epa.gov>; Green, Katherine <Green.Katherine@epa.gov>; Murphy, Kara <Murphy.Kara@epa.gov>
Subject: Re: Northport

Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)

On May 28, 2019, at 3:41 PM, Feinmark, Phyllis <Feinmark.Phyllis@epa.gov> wrote:

Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)

From: McKenna, Douglas
Sent: Tuesday, May 28, 2019 3:37 PM
To: Zwany, Deborah (USANYE) <Deborah.Zwany@usdoj.gov>
Cc: Modigliani, Justine <Modigliani.Justine@epa.gov>; Green, Katherine <Green.Katherine@epa.gov>; Feinmark, Phyllis <Feinmark.Phyllis@epa.gov>; Murphy, Kara <Murphy.Kara@epa.gov>
Subject: Re: Northport

Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)

Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)

On May 28, 2019, at 3:24 PM, Zwany, Deborah (USANYE) <Deborah.Zwany@usdoj.gov> wrote:

Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)

From: Gallagher, Mark (ENRD) <MGallagher@ENRD.USDOJ.GOV>
Sent: Tuesday, May 28, 2019 3:22 PM
To: Zwany, Deborah (USANYE) <DZwany@usa.doj.gov>
Cc: Silverman, Matthew (USANYE) <MSilverman@usa.doj.gov>
Subject: Re: Northport

Hi Deborah

Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)

M

On May 28, 2019, at 3:10 PM, Zwany, Deborah (USANYE) <Deborah.Zwany@usdoj.gov> wrote:

Karen and Caroline,

Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)

Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)

Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)

Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)

Thanks again,

Deborah

From: Dworkin, Karen (ENRD) <KDworkin@ENRD.USDOJ.GOV>
Sent: Friday, May 24, 2019 3:04 PM
To: Zwany, Deborah (USANYE) <DZwany@usa.doj.gov>; makepeace.caroline@epa.gov
Cc: Gallagher, Mark (ENRD) <MGallagher@ENRD.USDOJ.GOV>; Silverman, Matthew (USANYE) <MSilverman@usa.doj.gov>; Vagelatos, John (USANYE) <JVagelatos@usa.doj.gov>; Feinmark, Phyllis (Feinmark.Phyllis@epa.gov) <Feinmark.Phyllis@epa.gov>; Murphy, Kara <Murphy.Kara@epa.gov>
Subject: RE: Northport

Thanks Deborah!

From: Zwany, Deborah (USANYE) <Deborah.Zwany@usdoj.gov>
Sent: Friday, May 24, 2019 3:02 PM
To: Dworkin, Karen (ENRD) <KDworkin@ENRD.USDOJ.GOV>; makepeace.caroline@epa.gov
Cc: Gallagher, Mark (ENRD) <MGallagher@ENRD.USDOJ.GOV>; Silverman, Matthew (USANYE) <MSilverman@usa.doj.gov>; Vagelatos, John (USANYE) <JVagelatos@usa.doj.gov>; Feinmark, Phyllis (Feinmark.Phyllis@epa.gov) <Feinmark.Phyllis@epa.gov>; Murphy, Kara <Murphy.Kara@epa.gov>
Subject: RE: Northport

Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)

From: Zwany, Deborah (USANYE)
Sent: Friday, May 24, 2019 8:58 AM
To: Dworkin, Karen (ENRD) (Karen.Dworkin@usdoj.gov) <Karen.Dworkin@usdoj.gov>; 'makepeace.caroline@epa.gov' <makepeace.caroline@epa.gov>
Cc: Gallagher, Mark (ENRD) <Mark.Gallagher1@usdoj.gov>; Silverman, Matthew (USANYE) <MSilverman@usa.doj.gov>; Vagelatos, John (USANYE) <JVagelatos@usa.doj.gov>; Feinmark, Phyllis (Feinmark.Phyllis@epa.gov) <Feinmark.Phyllis@epa.gov>; 'Murphy, Kara' <Murphy.Kara@epa.gov>
Subject: Northport

Hello all,

I will be taking this case over from John Vagelatos. John is transferring to our Criminal Division in a couple of weeks. Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)

Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)

Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC) Have a nice Memorial Day weekend.

Deborah

Deborah B. Zwany
Senior Litigation Counsel
United States Attorney's Office
Eastern District of New York
271 Cadman Plaza East
Brooklyn, New York 11201
(718) 254-6010

On May 23, 2019, at 11:53 AM, Silverman, Matthew (USANYE) <MSilverman@usa.doj.gov> wrote:

> Please see below for more context.
>
> Truly,
> Matthew Silverman
> Assistant U.S. Attorney, EDNY
>
> Begin forwarded message:
>
> > **From:** "Gallagher, Mark (ENRD)"

<MGallagher@ENRD.USDOJ.GOV>
Date: May 23, 2019 at 11:46:39 AM EDT
To: "Dworkin, Karen (ENRD)" <KDworkin@ENRD.USDOJ.GOV>, "Beckmann, Diane (USANYE)" <DBeckmann@usa.doj.gov>, "Silverman, Matthew (USANYE)" <MSilverman@usa.doj.gov>
Cc: "Makepeace, Caroline" <Makepeace.Caroline@epa.gov>
Subject: Re: Bookhaven and Northport

Diane and Matt

Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)

(I'm on a short vacation, and not always easily available)

-Mark

On May 23, 2019, at 10:40 AM, Dworkin, Karen (ENRD) <KDworkin@enrd.usdoj.gov> wrote:

Mark – Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)

Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)

Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)

Thanks Mark.

Message

From: Green, Katherine [Green.Katherine@epa.gov]
Sent: 5/28/2019 9:24:13 PM
To: Feinmark, Phyllis [Feinmark.Phyllis@epa.gov]
Subject: RE: Northport

Thanks, Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)

From: Feinmark, Phyllis
Sent: Tuesday, May 28, 2019 5:24 PM
To: Green, Katherine <Green.Katherine@epa.gov>
Subject: RE: Northport

Great!

From: Green, Katherine
Sent: Tuesday, May 28, 2019 5:23 PM
To: Feinmark, Phyllis <Feinmark.Phyllis@epa.gov>
Subject: RE: Northport

Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)

From: Feinmark, Phyllis
Sent: Tuesday, May 28, 2019 4:14 PM
To: McKenna, Douglas <McKenna.Douglas@epa.gov>
Cc: Zwany, Deborah (USANYE) <Deborah.Zwany@usdoj.gov>; Modigliani, Justine <Modigliani.Justine@epa.gov>; Green, Katherine <Green.Katherine@epa.gov>; Murphy, Kara <Murphy.Kara@epa.gov>
Subject: RE: Northport

Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)

From: McKenna, Douglas
Sent: Tuesday, May 28, 2019 3:55 PM
To: Feinmark, Phyllis <Feinmark.Phyllis@epa.gov>
Cc: Zwany, Deborah (USANYE) <Deborah.Zwany@usdoj.gov>; Modigliani, Justine <Modigliani.Justine@epa.gov>; Green, Katherine <Green.Katherine@epa.gov>; Murphy, Kara <Murphy.Kara@epa.gov>
Subject: Re: Northport

Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)

On May 28, 2019, at 3:41 PM, Feinmark, Phyllis <Feinmark.Phyllis@epa.gov> wrote:

Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)

From: McKenna, Douglas
Sent: Tuesday, May 28, 2019 3:37 PM
To: Zwany, Deborah (USANYE) <Deborah.Zwany@usdoj.gov>
Cc: Modigliani, Justine <Modigliani.Justine@epa.gov>; Green, Katherine <Green.Katherine@epa.gov>; Feinmark, Phyllis <Feinmark.Phyllis@epa.gov>; Murphy, Kara <Murphy.Kara@epa.gov>
Subject: Re: Northport

Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)

On May 28, 2019, at 3:24 PM, Zwany, Deborah (USANYE) <Deborah.Zwany@usdoj.gov> wrote:

Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC) Thanks.

From: Gallagher, Mark (ENRD) <MGallagher@ENRD.USDOJ.GOV>
Sent: Tuesday, May 28, 2019 3:22 PM
To: Zwany, Deborah (USANYE) <DZwany@usa.doj.gov>
Cc: Silverman, Matthew (USANYE) <MSilverman@usa.doj.gov>
Subject: Re: Northport

Hi Deborah

Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)

Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)

Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)

Thanks again,

Deborah

From: Dworkin, Karen (ENRD) <KDworkin@ENRD.USDOJ.GOV>
Sent: Friday, May 24, 2019 3:04 PM
To: Zwany, Deborah (USANYE) <DZwany@usa.doj.gov>; makepeace.caroline@epa.gov
Cc: Gallagher, Mark (ENRD) <MGallagher@ENRD.USDOJ.GOV>; Silverman, Matthew (USANYE) <MSilverman@usa.doj.gov>; Vagelatos, John (USANYE) <JVagelatos@usa.doj.gov>; Feinmark, Phyllis (Feinmark.Phyllis@epa.gov) <Feinmark.Phyllis@epa.gov>; Murphy, Kara <Murphy.Kara@epa.gov>
Subject: RE: Northport

Thanks Deborah!

From: Zwany, Deborah (USANYE) <Deborah.Zwany@usdoj.gov>
Sent: Friday, May 24, 2019 3:02 PM
To: Dworkin, Karen (ENRD) <KDworkin@ENRD.USDOJ.GOV>; makepeace.caroline@epa.gov
Cc: Gallagher, Mark (ENRD) <MGallagher@ENRD.USDOJ.GOV>; Silverman, Matthew (USANYE) <MSilverman@usa.doj.gov>; Vagelatos, John (USANYE)

<JVagelatos@usa.doj.gov>; Feinmark, Phyllis (Feinmark.Phyllis@epa.gov) <Feinmark.Phyllis@epa.gov>; Murphy, Kara <Murphy.Kara@epa.gov>
Subject: RE: Northport

Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)

From: Zwany, Deborah (USANYE)
Sent: Friday, May 24, 2019 8:58 AM
To: Dworkin, Karen (ENRD) (Karen.Dworkin@usdoj.gov) <Karen.Dworkin@usdoj.gov>; 'makepeace.caroline@epa.gov' <makepeace.caroline@epa.gov>
Cc: Gallagher, Mark (ENRD) <Mark.Gallagher1@usdoj.gov>; Silverman, Matthew (USANYE) <MSilverman@usa.doj.gov>; Vagelatos, John (USANYE) <JVagelatos@usa.doj.gov>; Feinmark, Phyllis (Feinmark.Phyllis@epa.gov) <Feinmark.Phyllis@epa.gov>; 'Murphy, Kara' <Murphy.Kara@epa.gov>
Subject: Northport

Hello all,

I will be taking this case over from John Vagelatos. John is transferring to our Criminal Division in a couple of weeks. Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)

Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)

Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC) Have a nice Memorial Day weekend.

Deborah

Deborah B. Zwany
Senior Litigation Counsel
United States Attorney's Office
Eastern District of New York
271 Cadman Plaza East
Brooklyn, New York 11201
(718) 254-6010

On May 23, 2019, at 11:53 AM, Silverman, Matthew (USANYE) <MSilverman@usa.doj.gov> wrote:

> Please see below for more context.
>
> Truly,
> Matthew Silverman
> Assistant U.S. Attorney, EDNY
>
> Begin forwarded message:
>
> > **From:** "Gallagher, Mark (ENRD)" <MGallagher@ENRD.USDOJ.GOV>

Date: May 23, 2019 at 11:46:39 AM EDT
To: "Dworkin, Karen (ENRD)" <KDworkin@ENRD.USDOJ.GOV>, "Beckmann, Diane (USANYE)" <DBeckmann@usa.doj.gov>, "Silverman, Matthew (USANYE)" <MSilverman@usa.doj.gov>
Cc: "Makepeace, Caroline" <Makepeace.Caroline@epa.gov>
Subject: Re: Bookhaven and Northport

Diane and Matt

Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)

(I'm on a short vacation, and not always easily available
)

-Mark

On May 23, 2019, at 10:40 AM, Dworkin, Karen (ENRD) <KDworkin@enrd.usdoj.gov> wrote:

Mark – **Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)**

Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)

Thanks Mark.

Message

From: McKenna, Douglas [McKenna.Douglas@epa.gov]
Sent: 4/26/2019 4:50:35 PM
To: Feinmark, Phyllis [Feinmark.Phyllis@epa.gov]
Subject: FW: Northport

Where have you been all week?

Penn State is pretty good huh?

Ex. 5 - Attorney-Client (AC)

-----Original Message-----
From: McKenna, Douglas
Sent: Wednesday, April 17, 2019 8:03 AM
To: Simon, Paul <Simon.Paul@epa.gov>
Cc: Feinmark, Phyllis <Feinmark.Phyllis@epa.gov>; Schaaf, Eric <Schaaf.Eric@epa.gov>; LaPosta, Dore <LaPosta.Dore@epa.gov>; Anderson, Kate <Anderson.Kate@epa.gov>
Subject: Re: Northport

Ex. 5 - Attorney-Client (AC)

Thanks

> On Apr 17, 2019, at 7:56 AM, Simon, Paul <Simon.Paul@epa.gov> wrote:
>

Ex. 5 - Attorney-Client (AC)

> Thanks
>
> Sent from my iPhone

Message

From: Zwany, Deborah (USANYE) [Deborah.Zwany@usdoj.gov]
Sent: 5/28/2019 8:44:41 PM
To: Feinmark, Phyllis [Feinmark.Phyllis@epa.gov]
Subject: RE: Northport

Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC) Thanks.

From: Feinmark, Phyllis <Feinmark.Phyllis@epa.gov>
Sent: Tuesday, May 28, 2019 4:14 PM
To: McKenna, Douglas <McKenna.Douglas@epa.gov>
Cc: Zwany, Deborah (USANYE) <DZwany@usa.doj.gov>; Modigliani, Justine <Modigliani.Justine@epa.gov>; Green, Katherine <Green.Katherine@epa.gov>; Murphy, Kara <Murphy.Kara@epa.gov>
Subject: RE: Northport

Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)

From: McKenna, Douglas
Sent: Tuesday, May 28, 2019 3:55 PM
To: Feinmark, Phyllis <Feinmark.Phyllis@epa.gov>
Cc: Zwany, Deborah (USANYE) <Deborah.Zwany@usdoj.gov>; Modigliani, Justine <Modigliani.Justine@epa.gov>; Green, Katherine <Green.Katherine@epa.gov>; Murphy, Kara <Murphy.Kara@epa.gov>
Subject: Re: Ex. 7(A)

Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)

On May 28, 2019, at 3:41 PM, Feinmark, Phyllis <Feinmark.Phyllis@epa.gov> wrote:

Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)

From: McKenna, Douglas
Sent: Tuesday, May 28, 2019 3:37 PM
To: Zwany, Deborah (USANYE) <Deborah.Zwany@usdoj.gov>
Cc: Modigliani, Justine <Modigliani.Justine@epa.gov>; Green, Katherine <Green.Katherine@epa.gov>; Feinmark, Phyllis <Feinmark.Phyllis@epa.gov>; Murphy, Kara <Murphy.Kara@epa.gov>
Subject: Re: Northport

Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)

On May 28, 2019, at 3:24 PM, Zwany, Deborah (USANYE) <Deborah.Zwany@usdoj.gov> wrote:

Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC) Thanks.

From: Gallagher, Mark (ENRD) <MGallagher@ENRD.USDOJ.GOV>
Sent: Tuesday, May 28, 2019 3:22 PM
To: Zwany, Deborah (USANYE) <DZwany@usa.doj.gov>
Cc: Silverman, Matthew (USANYE) <MSilverman@usa.doj.gov>
Subject: Re: Northport

Hi Deborah

Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)

M

On May 28, 2019, at 3:10 PM, Zwany, Deborah (USANYE) <Deborah.Zwany@usdoj.gov> wrote:

Karen and Caroline,

Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)

Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)

Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)

Thanks again,

Deborah

From: Dworkin, Karen (ENRD) <KDworkin@ENRD.USDOJ.GOV>
Sent: Friday, May 24, 2019 3:04 PM
To: Zwany, Deborah (USANYE) <DZwany@usa.doj.gov>; makepeace.caroline@epa.gov
Cc: Gallagher, Mark (ENRD) <MGallagher@ENRD.USDOJ.GOV>; Silverman, Matthew (USANYE) <MSilverman@usa.doj.gov>; Vagelatos, John (USANYE) <JVagelatos@usa.doj.gov>; Feinmark, Phyllis (Feinmark.Phyllis@epa.gov) <Feinmark.Phyllis@epa.gov>; Murphy, Kara <Murphy.Kara@epa.gov>
Subject: RE: Northport

Thanks Deborah!

From: Zwany, Deborah (USANYE) <Deborah.Zwany@usdoj.gov>
Sent: Friday, May 24, 2019 3:02 PM
To: Dworkin, Karen (ENRD) <KDworkin@ENRD.USDOJ.GOV>; makepeace.caroline@epa.gov
Cc: Gallagher, Mark (ENRD) <MGallagher@ENRD.USDOJ.GOV>; Silverman, Matthew (USANYE) <MSilverman@usa.doj.gov>; Vagelatos, John (USANYE) <JVagelatos@usa.doj.gov>; Feinmark, Phyllis (Feinmark.Phyllis@epa.gov) <Feinmark.Phyllis@epa.gov>; Murphy, Kara <Murphy.Kara@epa.gov>
Subject: RE: Northport

Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)

From: Zwany, Deborah (USANYE)
Sent: Friday, May 24, 2019 8:58 AM
To: Dworkin, Karen (ENRD) (Karen.Dworkin@usdoj.gov) <Karen.Dworkin@usdoj.gov>; 'makepeace.caroline@epa.gov' <makepeace.caroline@epa.gov>
Cc: Gallagher, Mark (ENRD) <Mark.Gallagher1@usdoj.gov>; Silverman, Matthew (USANYE) <MSilverman@usa.doj.gov>; Vagelatos, John (USANYE) <JVagelatos@usa.doj.gov>; Feinmark, Phyllis (Feinmark.Phyllis@epa.gov) <Feinmark.Phyllis@epa.gov>; 'Murphy, Kara' <Murphy.Kara@epa.gov>
Subject: Northport

Hello all,

I will be taking this case over from John Vagelatos. John is transferring to our Criminal Division in a couple of weeks. Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)

Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)

Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC) Have a nice Memorial Day weekend.

Deborah

Deborah B. Zwany
Senior Litigation Counsel
United States Attorney's Office
Eastern District of New York
271 Cadman Plaza East
Brooklyn, New York 11201
(718) 254-6010

On May 23, 2019, at 11:53 AM, Silverman, Matthew (USANYE) <MSilverman@usa.doj.gov> wrote:

> Please see below for more context.
>
> Truly,
> Matthew Silverman
> Assistant U.S. Attorney, EDNY
>
> Begin forwarded message:
>
> **From:** "Gallagher, Mark (ENRD)" <MGallagher@ENRD.USDOJ.GOV>
> **Date:** May 23, 2019 at 11:46:39 AM EDT
> **To:** "Dworkin, Karen (ENRD)" <KDworkin@ENRD.USDOJ.GOV>, "Beckmann, Diane (USANYE)" <DBeckmann@usa.doj.gov>, "Silverman, Matthew (USANYE)" <MSilverman@usa.doj.gov>
> **Cc:** "Makepeace, Caroline" <Makepeace.Caroline@epa.gov>
> **Subject: Re: Bookhaven and Northport**
>
> Diane and Matt
>
> Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)

(I'm on a short vacation, and not always easily available
)

-Mark

On May 23, 2019, at 10:40 AM, Dworkin, Karen (ENRD) <KDworkin@enrd.usdoj.gov> wrote:

Mark – Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)

Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)

Thanks Mark.

Message

From: Zwany, Deborah (USANYE) [Deborah.Zwany@usdoj.gov]
Sent: 5/28/2019 7:47:12 PM
To: Feinmark, Phyllis [Feinmark.Phyllis@epa.gov]; McKenna, Douglas [McKenna.Douglas@epa.gov]
CC: Modigliani, Justine [Modigliani.Justine@epa.gov]; Green, Katherine [Green.Katherine@epa.gov]; Murphy, Kara [Murphy.Kara@epa.gov]
Subject: RE: Northport

Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)

From: Feinmark, Phyllis <Feinmark.Phyllis@epa.gov>
Sent: Tuesday, May 28, 2019 3:42 PM
To: McKenna, Douglas <McKenna.Douglas@epa.gov>; Zwany, Deborah (USANYE) <DZwany@usa.doj.gov>
Cc: Modigliani, Justine <Modigliani.Justine@epa.gov>; Green, Katherine <Green.Katherine@epa.gov>; Murphy, Kara <Murphy.Kara@epa.gov>
Subject: RE: Northport

Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)

From: McKenna, Douglas
Sent: Tuesday, May 28, 2019 3:37 PM
To: Zwany, Deborah (USANYE) <Deborah.Zwany@usdoj.gov>
Cc: Modigliani, Justine <Modigliani.Justine@epa.gov>; Green, Katherine <Green.Katherine@epa.gov>; Feinmark, Phyllis <Feinmark.Phyllis@epa.gov>; Murphy, Kara <Murphy.Kara@epa.gov>
Subject: Re: Northport

Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)

On May 28, 2019, at 3:24 PM, Zwany, Deborah (USANYE) <Deborah.Zwany@usdoj.gov> wrote:

Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC) Thanks.

From: Gallagher, Mark (ENRD) <MGallagher@ENRD.USDOJ.GOV>
Sent: Tuesday, May 28, 2019 3:22 PM
To: Zwany, Deborah (USANYE) <DZwany@usa.doj.gov>
Cc: Silverman, Matthew (USANYE) <MSilverman@usa.doj.gov>
Subject: Re: Northport

Hi Deborah

Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)

M

On May 28, 2019, at 3:10 PM, Zwany, Deborah (USANYE) <Deborah.Zwany@usdoj.gov> wrote:

Karen and Caroline,

Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)

Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)

Thanks again,

Deborah

From: Dworkin, Karen (ENRD) <KDworkin@ENRD.USDOJ.GOV>
Sent: Friday, May 24, 2019 3:04 PM
To: Zwany, Deborah (USANYE) <DZwany@usa.doj.gov>; makepeace.caroline@epa.gov
Cc: Gallagher, Mark (ENRD) <MGallagher@ENRD.USDOJ.GOV>; Silverman, Matthew (USANYE) <MSilverman@usa.doj.gov>; Vagelatos, John (USANYE) <JVagelatos@usa.doj.gov>; Feinmark, Phyllis (Feinmark.Phyllis@epa.gov) <Feinmark.Phyllis@epa.gov>; Murphy, Kara <Murphy.Kara@epa.gov>
Subject: RE: Northport

Thanks Deborah!

From: Zwany, Deborah (USANYE) <Deborah.Zwany@usdoj.gov>
Sent: Friday, May 24, 2019 3:02 PM
To: Dworkin, Karen (ENRD) <KDworkin@ENRD.USDOJ.GOV>; makepeace.caroline@epa.gov
Cc: Gallagher, Mark (ENRD) <MGallagher@ENRD.USDOJ.GOV>; Silverman, Matthew (USANYE)

<MSilverman@usa.doj.gov>; Vagelatos, John (USANYE) <JVagelatos@usa.doj.gov>; Feinmark, Phyllis (Feinmark.Phyllis@epa.gov) <Feinmark.Phyllis@epa.gov>; Murphy, Kara <Murphy.Kara@epa.gov>
Subject: RE: Northport

Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)

From: Zwany, Deborah (USANYE)
Sent: Friday, May 24, 2019 8:58 AM
To: Dworkin, Karen (ENRD) (Karen.Dworkin@usdoj.gov) <Karen.Dworkin@usdoj.gov>; 'makepeace.caroline@epa.gov' <makepeace.caroline@epa.gov>
Cc: Gallagher, Mark (ENRD) <Mark.Gallagher1@usdoj.gov>; Silverman, Matthew (USANYE) <MSilverman@usa.doj.gov>; Vagelatos, John (USANYE) <JVagelatos@usa.doj.gov>; Feinmark, Phyllis (Feinmark.Phyllis@epa.gov) <Feinmark.Phyllis@epa.gov>; 'Murphy, Kara' <Murphy.Kara@epa.gov>
Subject: Northport

Hello all,

Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)

Deborah

Deborah B. Zwany
Senior Litigation Counsel
United States Attorney's Office
Eastern District of New York
271 Cadman Plaza East
Brooklyn, New York 11201
(718) 254-6010

On May 23, 2019, at 11:53 AM, Silverman, Matthew (USANYE) <MSilverman@usa.doj.gov> wrote:

> Please see below for more context.
>
> Truly,
> Matthew Silverman
> Assistant U.S. Attorney, EDNY
>
> Begin forwarded message:
>
> > **From:** "Gallagher, Mark (ENRD)" <MGallagher@ENRD.USDOJ.GOV>
> > **Date:** May 23, 2019 at 11:46:39 AM EDT
> > **To:** "Dworkin, Karen (ENRD)" <KDworkin@ENRD.USDOJ.GOV>, "Beckmann, Diane (USANYE)" <DBeckmann@usa.doj.gov>, "Silverman, Matthew (USANYE)" <MSilverman@usa.doj.gov>

Cc: "Makepeace, Caroline" <Makepeace.Caroline@epa.gov>
Subject: Re: Bookhaven and Northport

Diane and Matt

Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)

(I'm on a short vacation, and not always easily available)

-Mark

On May 23, 2019, at 10:40 AM, Dworkin, Karen (ENRD) <KDworkin@enrd.usdoj.gov> wrote:

Mark – **Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)**

Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)

Thanks Mark.

Message

From: Murphy, Kara [Murphy.Kara@epa.gov]
Sent: 5/28/2019 7:22:59 PM
To: Feinmark, Phyllis [Feinmark.Phyllis@epa.gov]
CC: Murphy, Kara [Murphy.Kara@epa.gov]
Subject: FW: Northport draft response for Karen Dworkin and Caroline Makepeace

FYI

From: Modigliani, Justine
Sent: Tuesday, May 28, 2019 2:33 PM
To: Zwany, Deborah (USANYE) <Deborah.Zwany@usdoj.gov>
Cc: Murphy, Kara <Murphy.Kara@epa.gov>; Green, Katherine <Green.Katherine@epa.gov>
Subject: Re: Northport draft response for Karen Dworkin and Caroline Makepeace

Hi Deborah,

Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)

Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC) Thanks!!

Justine

Sent from my iPhone

On May 28, 2019, at 1:35 PM, Zwany, Deborah (USANYE) <Deborah.Zwany@usdoj.gov> wrote:

Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)

Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)

Message

From: Murphy, Kara [Murphy.Kara@epa.gov]
Sent: 5/28/2019 6:21:20 PM
To: Feinmark, Phyllis [Feinmark.Phyllis@epa.gov]
CC: Murphy, Kara [Murphy.Kara@epa.gov]
Subject: FW: Northport draft response for Karen Dworkin and Catherine Makepeace

Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)

-----Original Message-----
From: Zwany, Deborah (USANYE) <Deborah.Zwany@usdoj.gov>
Sent: Tuesday, May 28, 2019 1:35 PM
To: Murphy, Kara <Murphy.Kara@epa.gov>
Cc: McKenna, Douglas <McKenna.Douglas@epa.gov>; Modigliani, Justine <Modigliani.Justine@epa.gov>; Green, Katherine <Green.Katherine@epa.gov>; Feinmark, Phyllis <Feinmark.Phyllis@epa.gov>
Subject: RE: Northport draft response for Karen Dworkin and Catherine Makepeace

Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)

Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)

Message

From: Makepeace, Caroline [Makepeace.Caroline@epa.gov]
Sent: 5/28/2019 2:01:52 AM
To: Zwany, Deborah (USANYE) [Deborah.Zwany@usdoj.gov]
CC: karen.dworkin@usdoj.gov; Gallagher, Mark (ENRD) [Mark.Gallagher@usdoj.gov]; Silverman, Matthew (USANYE) [Matthew.Silverman@usdoj.gov]; John.Vagelatos@usdoj.gov; Feinmark, Phyllis [Feinmark.Phyllis@epa.gov]; Murphy, Kara [Murphy.Kara@epa.gov]; Fogarty, Johnpc [Fogarty.Johnpc@epa.gov]
Subject: Re: Northport

Thank you!!

Sent from my iPhone

On May 24, 2019, at 8:58 AM, Zwany, Deborah (USANYE) <Deborah.Zwany@usdoj.gov> wrote:

> Hello all,
>
> I will be taking this case over from John Vagelatos. John is transferring to our Criminal Division in a couple of weeks. Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)
> Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)
> Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC) Have a nice Memorial Day weekend.
>
> Deborah
>
> Deborah B. Zwany
> Senior Litigation Counsel
> United States Attorney's Office
> Eastern District of New York
> 271 Cadman Plaza East
> Brooklyn, New York 11201
> (718) 254-6010
>
> On May 23, 2019, at 11:53 AM, Silverman, Matthew (USANYE) <MSilverman@usa.doj.gov> wrote:
>
> > Please see below for more context.
> >
> > Truly,
> > Matthew Silverman
> > Assistant U.S. Attorney, EDNY
> >
> > Begin forwarded message:
> >
> > **From:** "Gallagher, Mark (ENRD)" <MGallagher@ENRD.USDOJ.GOV>
> > **Date:** May 23, 2019 at 11:46:39 AM EDT
> > **To:** "Dworkin, Karen (ENRD)" <KDworkin@ENRD.USDOJ.GOV>, "Beckmann, Diane (USANYE)" <DBeckmann@usa.doj.gov>, "Silverman, Matthew (USANYE)" <MSilverman@usa.doj.gov>

Cc: "Makepeace, Caroline" <Makepeace.Caroline@epa.gov>
Subject: Re: Bookhaven and Northport

Diane and Matt

Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)

(I'm on a short vacation, and not always easily available)

-Mark

On May 23, 2019, at 10:40 AM, Dworkin, Karen (ENRD) <KDworkin@enrd.usdoj.gov> wrote:

Mark – Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)

Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)

Thanks Mark.

Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)

Message

From: Murphy, Kara [Murphy.Kara@epa.gov]
Sent: 5/24/2019 7:56:22 PM
To: Zwany, Deborah (USANYE) [Deborah.Zwany@usdoj.gov]
CC: Feinmark, Phyllis [Feinmark.Phyllis@epa.gov]; McKenna, Douglas [McKenna.Douglas@epa.gov]; Modigliani, Justine [Modigliani.Justine@epa.gov]; Green, Katherine [Green.Katherine@epa.gov]; Murphy, Kara [Murphy.Kara@epa.gov]
Subject: RE: Consent Judgment and Appendix B

Ex. 5 - Attorney-Client (AC) Thanks

From: Zwany, Deborah (USANYE) <Deborah.Zwany@usdoj.gov>
Sent: Friday, May 24, 2019 3:45 PM
To: Murphy, Kara <Murphy.Kara@epa.gov>
Cc: Feinmark, Phyllis <Feinmark.Phyllis@epa.gov>; McKenna, Douglas <McKenna.Douglas@epa.gov>; Modigliani, Justine <Modigliani.Justine@epa.gov>; Green, Katherine <Green.Katherine@epa.gov>
Subject: RE: Consent Judgment and Appendix B

Ex. 5 - Attorney-Client (AC)

From: Murphy, Kara <Murphy.Kara@epa.gov>
Sent: Friday, May 24, 2019 3:22 PM
To: Zwany, Deborah (USANYE) <DZwany@usa.doj.gov>
Cc: Feinmark, Phyllis <Feinmark.Phyllis@epa.gov>; McKenna, Douglas <McKenna.Douglas@epa.gov>; Modigliani, Justine <Modigliani.Justine@epa.gov>; Green, Katherine <Green.Katherine@epa.gov>; Murphy, Kara <Murphy.Kara@epa.gov>
Subject: RE: Consent Judgment and Appendix B

Ex. 5 - Attorney-Client (AC)

From: Zwany, Deborah (USANYE) <Deborah.Zwany@usdoj.gov>
Sent: Friday, May 24, 2019 3:19 PM
To: Murphy, Kara <Murphy.Kara@epa.gov>
Cc: Feinmark, Phyllis <Feinmark.Phyllis@epa.gov>; McKenna, Douglas <McKenna.Douglas@epa.gov>; Modigliani, Justine <Modigliani.Justine@epa.gov>; Green, Katherine <Green.Katherine@epa.gov>
Subject: RE: Consent Judgment and Appendix B

Ex. 5 - Attorney-Client (AC)

From: Murphy, Kara <Murphy.Kara@epa.gov>
Sent: Friday, May 24, 2019 3:15 PM
To: Zwany, Deborah (USANYE) <DZwany@usa.doj.gov>
Cc: Feinmark, Phyllis <Feinmark.Phyllis@epa.gov>; McKenna, Douglas <McKenna.Douglas@epa.gov>; Modigliani, Justine <Modigliani.Justine@epa.gov>; Green, Katherine <Green.Katherine@epa.gov>; Murphy, Kara <Murphy.Kara@epa.gov>
Subject: RE: Consent Judgment and Appendix B

Ex. 5 - Attorney-Client (AC)

From: Zwany, Deborah (USANYE) <Deborah.Zwany@usdoj.gov>
Sent: Friday, May 24, 2019 2:59 PM
To: Murphy, Kara <Murphy.Kara@epa.gov>
Cc: Feinmark, Phyllis <Feinmark.Phyllis@epa.gov>; McKenna, Douglas <McKenna.Douglas@epa.gov>; Modigliani, Justine <Modigliani.Justine@epa.gov>; Green, Katherine <Green.Katherine@epa.gov>
Subject: RE: Consent Judgment and Appendix B

Ex. 5 - Attorney-Client (AC)

From: Murphy, Kara <Murphy.Kara@epa.gov>
Sent: Friday, May 24, 2019 2:23 PM
To: Zwany, Deborah (USANYE) <DZwany@usa.doj.gov>
Cc: Feinmark, Phyllis <Feinmark.Phyllis@epa.gov>; McKenna, Douglas <McKenna.Douglas@epa.gov>; Modigliani, Justine <Modigliani.Justine@epa.gov>; Green, Katherine <Green.Katherine@epa.gov>; Murphy, Kara <Murphy.Kara@epa.gov>
Subject: FW: Consent Judgment and Appendix B

Please see below – Thanks!

From: Vagelatos, John (USANYE) <John.Vagelatos@usdoj.gov>
Sent: Wednesday, September 26, 2018 6:27 PM
To: Murphy, Kara <Murphy.Kara@epa.gov>
Subject: FW: Consent Judgment and Appendix B

FYI

From: Stuart Besen <sbesen@milbermakris.com>
Sent: Tuesday, September 25, 2018 3:19 PM
To: Vagelatos, John (USANYE) <JVagelatos@usa.doj.gov>
Subject: RE: Consent Judgment and Appendix B

Pursuant to our recent telephone conversation of today, we have the following question(s):

1. We are in the process of sending out the BID documents to start construction of the sewer hook-up of the houses on Bluff Point Road pursuant to our SEP. We will have the construction and project completed by the spring 2019. However, each homeowner is responsible for placing laterals on their property in order to hook up to our pipes etc., that we are placing in the ground. The laterals must be paid for by the individual homeowner by law since a municipality cannot make improvements on private property. If one homeowner refuses to put in a lateral will we still get credit for the SEP, if we complete everything that we can do?

2. Can we do one rain garden instead of two if the money to build the rain garden equals the sum of $20,000.00 or more.

3. Everything else in agreement is good and we agree to the penalty of $125,000.00.

Stuart P. Besen
Partner

MMP&S
Milber Makris Plousadis & Seiden, LLP
1000 Woodbury Road, Suite 402

Woodbury, New York 11797
516.712.4000 ext. 1125
516.712.4013 fax
sbesen@milbermakris.com

This electronic mail transmission is privileged and confidential and is intended only for the review of the party to whom it is addressed. If you have received this transmission in error, please immediately return it to the sender. Unintended transmission shall not constitute waiver of the attorney-client or any other privilege. For more information about MMP&S, please visit www.milbermakris.com

---

From: Vagelatos, John (USANYE) [mailto:John.Vagelatos@usdoj.gov]
Sent: Monday, September 24, 2018 3:44 PM
To: Stuart Besen <sbesen@milbermakris.com>
Subject: FW: Consent Judgment and Appendix B

Stuart,
Could you please provide an update?
Thank you,
John

From: Vagelatos, John (USANYE)
Sent: Wednesday, September 19, 2018 5:17 PM
To: 'Stuart Besen' <sbesen@milbermakris.com>
Subject: RE: Consent Judgment and Appendix B

Stuart,
Where do we stand?
As I mentioned in my Aug. 30 email, we're trying to get approval on Northport's settlement proposal, but need Northport's sign-off on the language of the Consent Judgment and answers to the Appendix Questions for our approval memos?
Thanks,
John

From: Stuart Besen <sbesen@milbermakris.com>
Sent: Thursday, August 30, 2018 3:27 PM
To: Vagelatos, John (USANYE) <JVagelatos@usa.doj.gov>
Subject: RE: Consent Judgment and Appendix B

I am looking to address the Board at our September 18, 2018 meeting.

Stuart P. Besen
Partner
.....
MMP&S
Milber Makris Plousadis & Seiden, LLP
1000 Woodbury Road, Suite 402
Woodbury, New York 11797
516.712.4000 ext. 1125
516.712.4013 fax
sbesen@milbermakris.com

This electronic mail transmission is privileged and confidential and is intended only for the review of the party to whom it is addressed. If you have received this transmission in error, please immediately return it to the sender. Unintended transmission shall not constitute waiver of the attorney-client or any other privilege. For more information about MMP&S, please visit www.milbermakris.com

From: Vagelatos, John (USANYE) [mailto:John.Vagelatos@usdoj.gov]
Sent: Thursday, August 30, 2018 10:37 AM
To: Stuart Besen <sbesen@milbermakris.com>
Subject: FW: Consent Judgment and Appendix B

Stuart,
Could you please provide a timetable for signing off on the Consent Judgment and answering the Appendix Questions?
We're trying to get approval on Northport's settlement proposal, but need these two things to finalize our internal memos.
Thanks,
John

From: Vagelatos, John (USANYE)
Sent: Monday, August 27, 2018 4:28 PM
To: Stuart P. Besen (sbesen@milbermakris.com) <sbesen@milbermakris.com>
Subject: FW: Consent Judgment and Appendix B

Stuart,
I'm just following up on this email from last week.
In order to get final approvals on the proposed penalty amount, we're being asked to include a Northport-approved Consent Judgment, including the final Appendix B. When do you think you'll be able to sign off on the Consent Judgment and answer the questions on the Appendix?
We have the right people's attention, so are trying to get approvals as soon as possible.
Thanks,
John

From: Vagelatos, John (USANYE)
Sent: Wednesday, August 22, 2018 6:49 PM
To: Stuart P. Besen (sbesen@milbermakris.com) <sbesen@milbermakris.com>
Subject: Consent Judgment and Appendix B

Stuart,

I attach a revised draft of the Consent Judgment with some minor edits as tracked changes for your review. Please also note some of the comments about outstanding information requested from Northport.

Also, as per our discussion, I attach a draft Appendix B to the Consent Judgment reflecting some additional information for Northport to fill in.

Please review and let me know when you have the additional information, or if you have any questions.

Best,
John

John Vagelatos

Assistant United States Attorney

United States Attorney's Office
Eastern District of New York
271-A Cadman Plaza East
Brooklyn, New York 11201

Telephone: 718-254-6182
Facsimile: 718-254-7489
Email: John.Vagelatos@USDOJ.gov

Message

From: Modigliani, Justine [Modigliani.Justine@epa.gov]
Sent: 5/24/2019 7:45:32 PM
To: Zwany, Deborah (USANYE) [Deborah.Zwany@usdoj.gov]; Murphy, Kara [Murphy.Kara@epa.gov]
CC: Feinmark, Phyllis [Feinmark.Phyllis@epa.gov]; McKenna, Douglas [McKenna.Douglas@epa.gov]; Green, Katherine [Green.Katherine@epa.gov]
Subject: RE: Consent Judgment and Appendix B

Ex. 5 - Attorney-Client (AC)

From: Zwany, Deborah (USANYE) <Deborah.Zwany@usdoj.gov>
Sent: Friday, May 24, 2019 3:19 PM
To: Murphy, Kara <Murphy.Kara@epa.gov>
Cc: Feinmark, Phyllis <Feinmark.Phyllis@epa.gov>; McKenna, Douglas <McKenna.Douglas@epa.gov>; Modigliani, Justine <Modigliani.Justine@epa.gov>; Green, Katherine <Green.Katherine@epa.gov>
Subject: RE: Consent Judgment and Appendix B

Ex. 5 - Attorney-Client (AC)

From: Murphy, Kara <Murphy.Kara@epa.gov>
Sent: Friday, May 24, 2019 3:15 PM
To: Zwany, Deborah (USANYE) <DZwany@usa.doj.gov>
Cc: Feinmark, Phyllis <Feinmark.Phyllis@epa.gov>; McKenna, Douglas <McKenna.Douglas@epa.gov>; Modigliani, Justine <Modigliani.Justine@epa.gov>; Green, Katherine <Green.Katherine@epa.gov>; Murphy, Kara <Murphy.Kara@epa.gov>
Subject: RE: Consent Judgment and Appendix B

Ex. 5 - Attorney-Client (AC)

From: Zwany, Deborah (USANYE) <Deborah.Zwany@usdoj.gov>
Sent: Friday, May 24, 2019 2:59 PM
To: Murphy, Kara <Murphy.Kara@epa.gov>
Cc: Feinmark, Phyllis <Feinmark.Phyllis@epa.gov>; McKenna, Douglas <McKenna.Douglas@epa.gov>; Modigliani, Justine <Modigliani.Justine@epa.gov>; Green, Katherine <Green.Katherine@epa.gov>
Subject: RE: Consent Judgment and Appendix B

Ex. 5 - Attorney-Client (AC)

From: Murphy, Kara <Murphy.Kara@epa.gov>
Sent: Friday, May 24, 2019 2:23 PM
To: Zwany, Deborah (USANYE) <DZwany@usa.doj.gov>
Cc: Feinmark, Phyllis <Feinmark.Phyllis@epa.gov>; McKenna, Douglas <McKenna.Douglas@epa.gov>; Modigliani, Justine <Modigliani.Justine@epa.gov>; Green, Katherine <Green.Katherine@epa.gov>; Murphy, Kara <Murphy.Kara@epa.gov>
Subject: FW: Consent Judgment and Appendix B

Please see below – Thanks!

From: Vagelatos, John (USANYE) <John.Vagelatos@usdoj.gov>
Sent: Wednesday, September 26, 2018 6:27 PM
To: Murphy, Kara <Murphy.Kara@epa.gov>
Subject: FW: Consent Judgment and Appendix B

FYI

From: Stuart Besen <sbesen@milbermakris.com>
Sent: Tuesday, September 25, 2018 3:19 PM
To: Vagelatos, John (USANYE) <JVagelatos@usa.doj.gov>
Subject: RE: Consent Judgment and Appendix B

Pursuant to our recent telephone conversation of today, we have the following question(s):

1. We are in the process of sending out the BID documents to start construction of the sewer hook-up of the houses on Bluff Point Road pursuant to our SEP. We will have the construction and project completed by the spring 2019. However, each homeowner is responsible for placing laterals on their property in order to hook up to our pipes etc., that we are placing in the ground. The laterals must be paid for by the individual homeowner by law since a municipality cannot make improvements on private property. If one homeowner refuses to put in a lateral will we still get credit for the SEP, if we complete everything that we can do?

2. Can we do one rain garden instead of two if the money to build the rain garden equals the sum of $20,000.00 or more.

3. Everything else in agreement is good and we agree to the penalty of Ex. 7(A)

Stuart P. Besen
Partner

MMP&S
Milber Makris Plousadis & Seiden, LLP
1000 Woodbury Road, Suite 402
Woodbury, New York 11797
516.712.4000 ext. 1125
516.712.4013 fax
sbesen@milbermakris.com

This electronic mail transmission is privileged and confidential and is intended only for the review of the party to whom it is addressed. If you have received this transmission in error, please immediately return it to the sender. Unintended transmission shall not constitute waiver of the attorney-client or any other privilege. For more information about MMP&S, please visit www.milbermakris.com

---

From: Vagelatos, John (USANYE) [mailto:John.Vagelatos@usdoj.gov]
Sent: Monday, September 24, 2018 3:44 PM
To: Stuart Besen <sbesen@milbermakris.com>
Subject: FW: Consent Judgment and Appendix B

Stuart,
Could you please provide an update?
Thank you,
John

From: Vagelatos, John (USANYE)
Sent: Wednesday, September 19, 2018 5:17 PM
To: 'Stuart Besen' <sbesen@milbermakris.com>
Subject: RE: Consent Judgment and Appendix B

Stuart,
Where do we stand?
As I mentioned in my Aug. 30 email, we're trying to get approval on Northport's settlement proposal, but need Northport's sign-off on the language of the Consent Judgment and answers to the Appendix Questions for our approval memos?
Thanks,
John

From: Stuart Besen <sbesen@milbermakris.com>
Sent: Thursday, August 30, 2018 3:27 PM
To: Vagelatos, John (USANYE) <JVagelatos@usa.doj.gov>
Subject: RE: Consent Judgment and Appendix B

I am looking to address the Board at our September 18, 2018 meeting.

Stuart P. Besen
Partner
.....

MMP&S

Milber Makris Plousadis & Seiden, LLP
1000 Woodbury Road, Suite 402
Woodbury, New York 11797
516.712.4000 ext. 1125
516.712.4013 fax
sbesen@milbermakris.com

This electronic mail transmission is privileged and confidential and is intended only for the review of the party to whom it is addressed. If you have received this transmission in error, please immediately return it to the sender. Unintended transmission shall not constitute waiver of the attorney-client or any other privilege. For more information about MMP&S, please visit www.milbermakris.com

---

From: Vagelatos, John (USANYE) [mailto:John.Vagelatos@usdoj.gov]
Sent: Thursday, August 30, 2018 10:37 AM
To: Stuart Besen <sbesen@milbermakris.com>
Subject: FW: Consent Judgment and Appendix B

Stuart,
Could you please provide a timetable for signing off on the Consent Judgment and answering the Appendix Questions?
We're trying to get approval on Northport's settlement proposal, but need these two things to finalize our internal memos.
Thanks,
John

From: Vagelatos, John (USANYE)
Sent: Monday, August 27, 2018 4:28 PM
To: Stuart P. Besen (sbesen@milbermakris.com) <sbesen@milbermakris.com>
Subject: FW: Consent Judgment and Appendix B

Stuart,
I'm just following up on this email from last week.
In order to get final approvals on the proposed penalty amount, we're being asked to include a Northport-approved Consent Judgment, including the final Appendix B. When do you think you'll be able to sign off on the Consent Judgment and answer the questions on the Appendix?
We have the right people's attention, so are trying to get approvals as soon as possible.
Thanks,
John

From: Vagelatos, John (USANYE)
Sent: Wednesday, August 22, 2018 6:49 PM
To: Stuart P. Besen (sbesen@milbermakris.com) <sbesen@milbermakris.com>
Subject: Consent Judgment and Appendix B

Stuart,

I attach a revised draft of the Consent Judgment with some minor edits as tracked changes for your review. Please also note some of the comments about outstanding information requested from Northport.

Also, as per our discussion, I attach a draft Appendix B to the Consent Judgment reflecting some additional information for Northport to fill in.

Please review and let me know when you have the additional information, or if you have any questions.

Best,
John

John Vagelatos
Assistant United States Attorney

United States Attorney's Office
Eastern District of New York
271-A Cadman Plaza East
Brooklyn, New York 11201

Telephone: 718-254-6182
Facsimile: 718-254-7489
Email: John.Vagelatos@USDOJ.gov

Message

From: Murphy, Kara [Murphy.Kara@epa.gov]
Sent: 5/24/2019 7:32:19 PM
To: Feinmark, Phyllis [Feinmark.Phyllis@epa.gov]
Subject: RE: Northport, "Sanitary Sewer Study for Steers Pit and Bluff Point Road Areas," dated July 28, 2017 and prepared by J.R. Holzmacher, P.E., LLC

Oops. I thought at one point someone used Deb. Thanks!

-----Original Message-----
From: Feinmark, Phyllis
Sent: Friday, May 24, 2019 3:24 PM
To: Murphy, Kara <Murphy.Kara@epa.gov>
Subject: RE: Northport, "Sanitary Sewer Study for Steers Pit and Bluff Point Road Areas," dated July 28, 2017 and prepared by J.R. Holzmacher, P.E., LLC

Also, she uses Deborah. Nothing else.

-----Original Message-----
From: Murphy, Kara
Sent: Friday, May 24, 2019 2:23 PM
To: Zwany, Deborah (USANYE) <Deborah.Zwany@usdoj.gov>
Cc: McKenna, Douglas <McKenna.Douglas@epa.gov>; Modigliani, Justine <Modigliani.Justine@epa.gov>; Green, Katherine <Green.Katherine@epa.gov>; Feinmark, Phyllis <Feinmark.Phyllis@epa.gov>; Murphy, Kara <Murphy.Kara@epa.gov>
Subject: RE: Northport, "Sanitary Sewer Study for Steers Pit and Bluff Point Road Areas," dated July 28, 2017 and prepared by J.R. Holzmacher, P.E., LLC

Great, thanks Deb! Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)

Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)

Justine and Katherine will be in Trenton on Tuesday. Their meeting should end around 1pm. Maybe right after their meeting but before they have to get on the road, we can have our call. Are you available around 1ish - 2pm? Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)

Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)

Have a great holiday weekend!

-----Original Message-----
From: Zwany, Deborah (USANYE) <Deborah.Zwany@usdoj.gov>
Sent: Friday, May 24, 2019 1:08 PM
To: Murphy, Kara <Murphy.Kara@epa.gov>
Cc: McKenna, Douglas <McKenna.Douglas@epa.gov>; Modigliani, Justine <Modigliani.Justine@epa.gov>; Green, Katherine <Green.Katherine@epa.gov>; Feinmark, Phyllis <Feinmark.Phyllis@epa.gov>
Subject: RE: Northport, "Sanitary Sewer Study for Steers Pit and Bluff Point Road Areas," dated July 28, 2017 and prepared by J.R. Holzmacher, P.E., LLC

Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)

Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)

Please let me know your thoughts on this response and also a good time to speak on Tuesday.

Have a happy and safe Memorial Day weekend.

Deborah

Deborah B. Zwany
Senior Litigation Counsel
United States Attorney's Office
Eastern District of New York
271 Cadman Plaza East
Brooklyn, New York 11201
(718) 254-6010

-----Original Message-----
From: Murphy, Kara <Murphy.Kara@epa.gov>
Sent: Friday, May 24, 2019 7:30 AM
To: Zwany, Deborah (USANYE) <DZwany@usa.doj.gov>
Cc: McKenna, Douglas <McKenna.Douglas@epa.gov>; Modigliani, Justine <Modigliani.Justine@epa.gov>; Green, Katherine <Green.Katherine@epa.gov>; Feinmark, Phyllis <Feinmark.Phyllis@epa.gov>; Murphy, Kara <Murphy.Kara@epa.gov>
Subject: RE: Northport

Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)

-----Original Message-----
From: Zwany, Deborah (USANYE) <Deborah.Zwany@usdoj.gov>
Sent: Friday, May 24, 2019 7:26 AM
To: Murphy, Kara <Murphy.Kara@epa.gov>
Cc: McKenna, Douglas <McKenna.Douglas@epa.gov>; Modigliani, Justine <Modigliani.Justine@epa.gov>; Green, Katherine <Green.Katherine@epa.gov>; Feinmark, Phyllis <Feinmark.Phyllis@epa.gov>
Subject: Re: Northport

That's great. Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)

Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)

On May 24, 2019, at 7:23 AM, Murphy, Kara <Murphy.Kara@epa.gov<mailto:Murphy.Kara@epa.gov>> wrote:

Hi Deborah! This is great news!

Yes, John has the most recent documents.

We can set up a meeting for next week to discuss this further. Let me check with the team and get back to you.

Thanks

Kara E. Murphy
Assistant Regional Counsel
U.S. EPA, Region 2
290 Broadway, 16th Floor
New York, NY 10007
(212) 637-3211 (Phone)
(212) 637-3202 (Fax)

Note: This transmission may contain confidential communications, attorney work product, enforcement sensitive, attorney-client and/or other privileged materials. Do not release under FOIA without appropriate review. If this message was sent to you in error, you must delete it and not print, copy re-transmit, disseminate, or otherwise use the information.

<image001.png>

From: Zwany, Deborah (USANYE) <Deborah.Zwany@usdoj.gov<mailto:Deborah.Zwany@usdoj.gov>>
Sent: Thursday, May 23, 2019 1:41 PM
To: McKenna, Douglas <McKenna.Douglas@epa.gov<mailto:McKenna.Douglas@epa.gov>>
Cc: Modigliani, Justine <Modigliani.Justine@epa.gov<mailto:Modigliani.Justine@epa.gov>>; Green, Katherine <Green.Katherine@epa.gov<mailto:Green.Katherine@epa.gov>>; Murphy, Kara <Murphy.Kara@epa.gov<mailto:Murphy.Kara@epa.gov>>
Subject: RE: Northport

Thank you for the warm welcome. I am looking forward to working with all of you Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)

Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)

Thanks.

Deborah

From: McKenna, Douglas <McKenna.Douglas@epa.gov<mailto:McKenna.Douglas@epa.gov>>
Sent: Thursday, May 23, 2019 1:35 PM
To: Zwany, Deborah (USANYE) <DZwany@usa.doj.gov<mailto:DZwany@usa.doj.gov>>
Cc: Modigliani, Justine <Modigliani.Justine@epa.gov<mailto:Modigliani.Justine@epa.gov>>; Green, Katherine <Green.Katherine@epa.gov<mailto:Green.Katherine@epa.gov>>; Murphy, Kara <Murphy.Kara@epa.gov<mailto:Murphy.Kara@epa.gov>>
Subject: RE: Northport

A very warm welcome to the case. Kara is the ORC Attorney, Katherine is the technical lead working for Justine who you know.

What we think is the current version of the CD is attached.

I also attached a fact sheet.

Ex. 5 Deliberative Process (DP)

Thanks Doug

From: Zwany, Deborah (USANYE) <Deborah.Zwany@usdoj.gov<mailto:Deborah.Zwany@usdoj.gov>>
Sent: Thursday, May 23, 2019 1:12 PM
To: McKenna, Douglas <McKenna.Douglas@epa.gov<mailto:McKenna.Douglas@epa.gov>>
Subject: Northport

Hello. You can call me at Ex. 6 - Personal Privacy (PP) K Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)

Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)

I don't have the current (or any) draft of the CD. Can you send? Also any relevant appendices so I can send to Karen.

Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)

Deborah B. Zwany
Senior Litigation Counsel
United States Attorney's Office
Eastern District of New York
271 Cadman Plaza East
Brooklyn, New York 11201
(718) 254-6010

Message

From: Murphy, Kara [Murphy.Kara@epa.gov]
Sent: 4/19/2019 7:10:38 PM
To: Feinmark, Phyllis [Feinmark.Phyllis@epa.gov]
Subject: RE: Northport - Ex. 5 - Attorney-Client (AC)

I'm so sorry Phyllis. Well I hope what I've done helps you out. Also, I let Tomoko know that the talking points will come sometime next week. Don't worry about them this week. Happy Pesach to you and your family! Hope it's a great celebration with the family!

From: Feinmark, Phyllis
Sent: Friday, April 19, 2019 10:55 AM
To: Murphy, Kara <Murphy.Kara@epa.gov>
Subject: Re: Northport - Ex. 5 - Attorney-Client (AC)

It was difficult. Anyway, I work every day now. Seven days a week. Too much to do and not enough time or people to do it.

Sent from my iPhone

On Apr 19, 2019, at 8:14 AM, Murphy, Kara <Murphy.Kara@epa.gov> wrote:

> Thanks Phyllis. Sorry you're working today! Hope yesterday was fun!
>
> ---
>
> **From:** Feinmark, Phyllis
> **Sent:** Friday, April 19, 2019 8:07 AM
> **To:** Murphy, Kara <Murphy.Kara@epa.gov>
> **Subject:** Re: Northport - Ex. 5 Attorney Client (AC)
>
> Ex. 5 - Attorney-Client (AC)
>
> Sent from my iPhone
>
> On Apr 18, 2019, at 12:39 PM, Murphy, Kara <Murphy.Kara@epa.gov> wrote:
>
>> Hi Phyllis –
>
> Ex. 5 - Attorney-Client (AC)

Ex. 5 - Attorney-Client (AC)

Thanks, Kara

Kara E. Murphy
Assistant Regional Counsel
U.S. EPA, Region 2
290 Broadway, 16th Floor
New York, NY 10007
(212) 637-3211 (Phone)
(212) 637-3202 (Fax)

Note: This transmission may contain confidential communications, attorney work product, enforcement sensitive, attorney-client and/or other privileged materials. Do not release under FOIA without appropriate review. If this message was sent to you in error, you must delete it and not print, copy re-transmit, disseminate, or otherwise use the information.

<image001.png>

Ex. 5 - Attorney-Client (AC)

Message

From: Murphy, Kara [Murphy.Kara@epa.gov]
Sent: 6/11/2019 8:28:22 PM
To: McKenna, Douglas [McKenna.Douglas@epa.gov]
CC: Modigliani, Justine [Modigliani.Justine@epa.gov]; Feinmark, Phyllis [Feinmark.Phyllis@epa.gov]; Green, Katherine [Green.Katherine@epa.gov]
Subject: RE: Northport

I'm not messin' with the cheetah...I'm team cheetah. ☺

-----Original Message-----
From: McKenna, Douglas
Sent: Tuesday, June 11, 2019 3:45 PM
To: Murphy, Kara <Murphy.Kara@epa.gov>
Cc: Modigliani, Justine <Modigliani.Justine@epa.gov>; Feinmark, Phyllis <Feinmark.Phyllis@epa.gov>; Green, Katherine <Green.Katherine@epa.gov>
Subject: RE: Northport

https://www.youtube.com/watch?v=V8vejjVgIHg

-----Original Message-----
From: Zwany, Deborah (USANYE) <Deborah.Zwany@usdoj.gov>
Sent: Tuesday, June 11, 2019 2:06 PM
To: Murphy, Kara <Murphy.Kara@epa.gov>
Cc: Modigliani, Justine <Modigliani.Justine@epa.gov>; Feinmark, Phyllis <Feinmark.Phyllis@epa.gov>; McKenna, Douglas <McKenna.Douglas@epa.gov>; Green, Katherine <Green.Katherine@epa.gov>
Subject: Re: Northport

Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)

On Jun 11, 2019, at 1:40 PM, Murphy, Kara <Murphy.Kara@epa.gov<mailto:Murphy.Kara@epa.gov>> wrote:

Hi Deborah - **Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)** Thanks!

From: Zwany, Deborah (USANYE) <Deborah.Zwany@usdoj.gov<mailto:Deborah.Zwany@usdoj.gov>>
Sent: Friday, May 31, 2019 9:45 AM
To: Modigliani, Justine <Modigliani.Justine@epa.gov<mailto:Modigliani.Justine@epa.gov>>; Feinmark, Phyllis <Feinmark.Phyllis@epa.gov<mailto:Feinmark.Phyllis@epa.gov>>
Cc: McKenna, Douglas <McKenna.Douglas@epa.gov<mailto:McKenna.Douglas@epa.gov>>; Green, Katherine <Green.Katherine@epa.gov<mailto:Green.Katherine@epa.gov>>; Murphy, Kara <Murphy.Kara@epa.gov<mailto:Murphy.Kara@epa.gov>>
Subject: RE: **Ex. 7(A)**

Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)

From: Modigliani, Justine <Modigliani.Justine@epa.gov<mailto:Modigliani.Justine@epa.gov>>
Sent: Wednesday, May 29, 2019 7:13 AM
To: Feinmark, Phyllis <Feinmark.Phyllis@epa.gov<mailto:Feinmark.Phyllis@epa.gov>>
Cc: McKenna, Douglas <McKenna.Douglas@epa.gov<mailto:McKenna.Douglas@epa.gov>>; Zwany, Deborah (USANYE) <DZwany@usa.doj.gov<mailto:DZwany@usa.doj.gov>>; Green, Katherine <Green.Katherine@epa.gov<mailto:Green.Katherine@epa.gov>>; Murphy, Kara <Murphy.Kara@epa.gov<mailto:Murphy.Kara@epa.gov>>
Subject: Re: Northport

Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)

On May 28, 2019, at 4:14 PM, Feinmark, Phyllis

Ex. 5 AC/DP

From: McKenna, Douglas

Sent: Tuesday, May 28, 2019 3:55 PM
To: Feinmark, Phyllis <Feinmark.Phyllis@epa.gov<mailto:Feinmark.Phyllis@epa.gov>>
Cc: Zwany, Deborah (USANYE) <Deborah.Zwany@usdoj.gov<mailto:Deborah.Zwany@usdoj.gov>>; Modigliani, Justine <Modigliani.Justine@epa.gov<mailto:Modigliani.Justine@epa.gov>>; Green, Katherine <Green.Katherine@epa.gov<mailto:Green.Katherine@epa.gov>>; Murphy, Kara <Murphy.Kara@epa.gov<mailto:Murphy.Kara@epa.gov>>
Subject: Re: Northport

Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)

On May 28, 2019, at 3:41 PM, Feinmark, Phyllis <Feinmark.Phyllis@epa.gov<mailto:Feinmark.Phyllis@epa.gov>> wrote:

Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)

From: McKenna, Douglas
Sent: Tuesday, May 28, 2019 3:37 PM
To: Zwany, Deborah (USANYE) <Deborah.Zwany@usdoj.gov<mailto:Deborah.Zwany@usdoj.gov>>
Cc: Modigliani, Justine <Modigliani.Justine@epa.gov<mailto:Modigliani.Justine@epa.gov>>; Green, Katherine <Green.Katherine@epa.gov<mailto:Green.Katherine@epa.gov>>; Feinmark, Phyllis <Feinmark.Phyllis@epa.gov<mailto:Feinmark.Phyllis@epa.gov>>; Murphy, Kara <Murphy.Kara@epa.gov<mailto:Murphy.Kara@epa.gov>>
Subject: Re: Northport

Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)

On May 28, 2019, at 3:24 PM, Zwany, Deborah (USANYE) <Deborah.Zwany@usdoj.gov<mailto:Deborah.Zwany@usdoj.gov>> wrote:

Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)

From: Gallagher, Mark (ENRD) <MGallagher@ENRD.USDOJ.GOV<mailto:MGallagher@ENRD.USDOJ.GOV>>
Sent: Tuesday, May 28, 2019 3:22 PM
To: Zwany, Deborah (USANYE) <DZwany@usa.doj.gov<mailto:DZwany@usa.doj.gov>>
Cc: Silverman, Matthew (USANYE) <MSilverman@usa.doj.gov<mailto:MSilverman@usa.doj.gov>>
Subject: Re: Northport

Hi Deborah

Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)

Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)

Thanks again,

Deborah

From: Dworkin, Karen (ENRD) <KDworkin@ENRD.USDOJ.GOV<mailto:KDworkin@ENRD.USDOJ.GOV>>
Sent: Friday, May 24, 2019 3:04 PM
To: Zwany, Deborah (USANYE) <DZwany@usa.doj.gov<mailto:DZwany@usa.doj.gov>>; makepeace.caroline@epa.gov<mailto:makepeace.caroline@epa.gov>
Cc: Gallagher, Mark (ENRD) <MGallagher@ENRD.USDOJ.GOV<mailto:MGallagher@ENRD.USDOJ.GOV>>; Silverman, Matthew (USANYE) <MSilverman@usa.doj.gov<mailto:MSilverman@usa.doj.gov>>; Vagelatos, John (USANYE) <JVagelatos@usa.doj.gov<mailto:JVagelatos@usa.doj.gov>>; Feinmark, Phyllis (Feinmark.Phyllis@epa.gov<mailto:Feinmark.Phyllis@epa.gov>)

<Feinmark.Phyllis@epa.gov<mailto:Feinmark.Phyllis@epa.gov>>; Murphy, Kara
<Murphy.Kara@epa.gov<mailto:Murphy.Kara@epa.gov>>
Subject: RE: Northport

Thanks Deborah!

From: Zwany, Deborah (USANYE) <Deborah.Zwany@usdoj.gov<mailto:Deborah.Zwany@usdoj.gov>>
Sent: Friday, May 24, 2019 3:02 PM
To: Dworkin, Karen (ENRD) <KDworkin@ENRD.USDOJ.GOV<mailto:KDworkin@ENRD.USDOJ.GOV>>;
makepeace.caroline@epa.gov<mailto:makepeace.caroline@epa.gov>
Cc: Gallagher, Mark (ENRD) <MGallagher@ENRD.USDOJ.GOV<mailto:MGallagher@ENRD.USDOJ.GOV>>; Silverman,
Matthew (USANYE) <MSilverman@usa.doj.gov<mailto:MSilverman@usa.doj.gov>>; Vagelatos, John (USANYE)
<JVagelatos@usa.doj.gov<mailto:JVagelatos@usa.doj.gov>>; Feinmark, Phyllis
(Feinmark.Phyllis@epa.gov<mailto:Feinmark.Phyllis@epa.gov>)
<Feinmark.Phyllis@epa.gov<mailto:Feinmark.Phyllis@epa.gov>>; Murphy, Kara
<Murphy.Kara@epa.gov<mailto:Murphy.Kara@epa.gov>>
Subject: RE: Northport

Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)

From: Zwany, Deborah (USANYE)
Sent: Friday, May 24, 2019 8:58 AM
To: Dworkin, Karen (ENRD) (Karen.Dworkin@usdoj.gov<mailto:Karen.Dworkin@usdoj.gov>)
<Karen.Dworkin@usdoj.gov<mailto:Karen.Dworkin@usdoj.gov>>;
'makepeace.caroline@epa.gov<mailto:makepeace.caroline@epa.gov>'
<makepeace.caroline@epa.gov<mailto:makepeace.caroline@epa.gov>>
Cc: Gallagher, Mark (ENRD) <Mark.Gallagher1@usdoj.gov<mailto:Mark.Gallagher1@usdoj.gov>>; Silverman,
Matthew (USANYE) <MSilverman@usa.doj.gov<mailto:MSilverman@usa.doj.gov>>; Vagelatos, John (USANYE)
<JVagelatos@usa.doj.gov<mailto:JVagelatos@usa.doj.gov>>; Feinmark, Phyllis
(Feinmark.Phyllis@epa.gov<mailto:Feinmark.Phyllis@epa.gov>)
<Feinmark.Phyllis@epa.gov<mailto:Feinmark.Phyllis@epa.gov>>; 'Murphy, Kara'
<Murphy.Kara@epa.gov<mailto:Murphy.Kara@epa.gov>>
Subject: Northport

Hello all,
I will be taking this case over from John Vagelatos. John is transferring to our Criminal Division in a couple of weeks. **Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)**
Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)
Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC) Have a nice Memorial Day weekend.
Deborah

Deborah B. Zwany
Senior Litigation Counsel
United States Attorney's Office
Eastern District of New York
271 Cadman Plaza East
Brooklyn, New York 11201
(718) 254-6010

On May 23, 2019, at 11:53 AM, Silverman, Matthew (USANYE)
<MSilverman@usa.doj.gov<mailto:MSilverman@usa.doj.gov>> wrote:
Please see below for more context.
Truly,
Matthew Silverman
Assistant U.S. Attorney, EDNY

Begin forwarded message:
From: "Gallagher, Mark (ENRD)" <MGallagher@ENRD.USDOJ.GOV<mailto:MGallagher@ENRD.USDOJ.GOV>>
Date: May 23, 2019 at 11:46:39 AM EDT
To: "Dworkin, Karen (ENRD)" <KDworkin@ENRD.USDOJ.GOV<mailto:KDworkin@ENRD.USDOJ.GOV>>, "Beckmann, Diane
(USANYE)" <DBeckmann@usa.doj.gov<mailto:DBeckmann@usa.doj.gov>>, "Silverman, Matthew (USANYE)"
<MSilverman@usa.doj.gov<mailto:MSilverman@usa.doj.gov>>
Cc: "Makepeace, Caroline" <Makepeace.Caroline@epa.gov<mailto:Makepeace.Caroline@epa.gov>>
Subject: Re: Bookhaven and Northport
Diane and Matt

Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)

(I'm on a short vacation, and not always easily available)

-Mark

On May 23, 2019, at 10:40 AM, Dworkin, Karen (ENRD)
<KDworkin@enrd.usdoj.gov<mailto:KDworkin@enrd.usdoj.gov>> wrote:

Mark – Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)

Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)

Thanks Mark.

Message

From: Zwany, Deborah (USANYE) [Deborah.Zwany@usdoj.gov]
Sent: 5/24/2019 6:25:43 PM
To: Murphy, Kara [Murphy.Kara@epa.gov]
CC: McKenna, Douglas [McKenna.Douglas@epa.gov]; Modigliani, Justine [Modigliani.Justine@epa.gov]; Green, Katherine [Green.Katherine@epa.gov]; Feinmark, Phyllis [Feinmark.Phyllis@epa.gov]
Subject: Re: Northport, "Sanitary Sewer Study for Steers Pit and Bluff Point Road Areas," dated July 28, 2017 and prepared by J.R. Holzmacher, P.E., LLC

Thanks Kara. Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC) Have a great weekend.

> On May 24, 2019, at 2:23 PM, Murphy, Kara <Murphy.Kara@epa.gov> wrote:
>

Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)

> Have a great holiday weekend!
>
> -----Original Message-----
> From: Zwany, Deborah (USANYE) <Deborah.Zwany@usdoj.gov>
> Sent: Friday, May 24, 2019 1:08 PM
> To: Murphy, Kara <Murphy.Kara@epa.gov>
> Cc: McKenna, Douglas <McKenna.Douglas@epa.gov>; Modigliani, Justine <Modigliani.Justine@epa.gov>; Green, Katherine <Green.Katherine@epa.gov>; Feinmark, Phyllis <Feinmark.Phyllis@epa.gov>
> Subject: RE: Northport, "Sanitary Sewer Study for Steers Pit and Bluff Point Road Areas," dated July 28, 2017 and prepared by J.R. Holzmacher, P.E., LLC
>

Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)

Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)

>
> Have a happy and safe Memorial Day weekend.
>
> Deborah
>
>
> Deborah B. Zwany
> Senior Litigation Counsel
> United States Attorney's Office
> Eastern District of New York
> 271 Cadman Plaza East
> Brooklyn, New York 11201
> (718) 254-6010
>
>
>
>
> -----Original Message-----
> From: Murphy, Kara <Murphy.Kara@epa.gov>
> Sent: Friday, May 24, 2019 7:30 AM

> To: Zwany, Deborah (USANYE) <DZwany@usa.doj.gov>
> Cc: McKenna, Douglas <McKenna.Douglas@epa.gov>; Modigliani, Justine <Modigliani.Justine@epa.gov>; Green, Katherine <Green.Katherine@epa.gov>; Feinmark, Phyllis <Feinmark.Phyllis@epa.gov>; Murphy, Kara <Murphy.Kara@epa.gov>
> Subject: RE: Northport
>

Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)

> -----Original Message-----
> From: Zwany, Deborah (USANYE) <Deborah.Zwany@usdoj.gov>
> Sent: Friday, May 24, 2019 7:26 AM
> To: Murphy, Kara <Murphy.Kara@epa.gov>
> Cc: McKenna, Douglas <McKenna.Douglas@epa.gov>; Modigliani, Justine <Modigliani.Justine@epa.gov>; Green, Katherine <Green.Katherine@epa.gov>; Feinmark, Phyllis <Feinmark.Phyllis@epa.gov>
> Subject: Re: Northport
>

Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)

> On May 24, 2019, at 7:23 AM, Murphy, Kara <Murphy.Kara@epa.gov<mailto:Murphy.Kara@epa.gov>> wrote:
>
> Hi Deborah!

Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)

>

Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)

> Thanks
>
> Kara E. Murphy
> Assistant Regional Counsel
> U.S. EPA, Region 2
> 290 Broadway, 16th Floor
> New York, NY 10007
> (212) 637-3211 (Phone)
> (212) 637-3202 (Fax)
>
> Note: This transmission may contain confidential communications, attorney work product, enforcement sensitive, attorney-client and/or other privileged materials. Do not release under FOIA without appropriate review. If this message was sent to you in error, you must delete it and not print, copy re-transmit, disseminate, or otherwise use the information.
>
> <image001.png>
>
> From: Zwany, Deborah (USANYE) <Deborah.Zwany@usdoj.gov<mailto:Deborah.Zwany@usdoj.gov>>
> Sent: Thursday, May 23, 2019 1:41 PM
> To: McKenna, Douglas <McKenna.Douglas@epa.gov<mailto:McKenna.Douglas@epa.gov>>
> Cc: Modigliani, Justine <Modigliani.Justine@epa.gov<mailto:Modigliani.Justine@epa.gov>>; Green, Katherine <Green.Katherine@epa.gov<mailto:Green.Katherine@epa.gov>>; Murphy, Kara <Murphy.Kara@epa.gov<mailto:Murphy.Kara@epa.gov>>
> Subject: RE: Northport
>
> Thank you for the warm welcome.

Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)

Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)

>
> Thanks.
>
> Deborah
>
> From: McKenna, Douglas <McKenna.Douglas@epa.gov<mailto:McKenna.Douglas@epa.gov>>
> Sent: Thursday, May 23, 2019 1:35 PM
> To: Zwany, Deborah (USANYE) <DZwany@usa.doj.gov<mailto:DZwany@usa.doj.gov>>
> Cc: Modigliani, Justine <Modigliani.Justine@epa.gov<mailto:Modigliani.Justine@epa.gov>>; Green, Katherine <Green.Katherine@epa.gov<mailto:Green.Katherine@epa.gov>>; Murphy, Kara <Murphy.Kara@epa.gov<mailto:Murphy.Kara@epa.gov>>
> Subject: RE: Northport
>
> A very warm welcome to the case. Kara is the ORC Attorney, Katherine is the technical lead working for Justine who you know.
>
>
>

Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)

>
> Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)
>
>
> Thanks Doug
>
>
>
>
> From: Zwany, Deborah (USANYE) <Deborah.Zwany@usdoj.gov<mailto:Deborah.Zwany@usdoj.gov>>
> Sent: Thursday, May 23, 2019 1:12 PM
> To: McKenna, Douglas <McKenna.Douglas@epa.gov<mailto:McKenna.Douglas@epa.gov>>
> Subject: Northport
>
> Hello. You can call me at Ex. 6 - Personal Privacy (PP) Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)

Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)

>
> Deborah B. Zwany
> Senior Litigation Counsel
> United States Attorney's Office
> Eastern District of New York
> 271 Cadman Plaza East
> Brooklyn, New York 11201
> (718) 254-6010
>
>
> <3EZ5262-Ltr to Vagelatos Murphy w at.pdf>

Message

From: Murphy, Kara [Murphy.Kara@epa.gov]
Sent: 6/11/2019 6:21:26 PM
To: Zwany, Deborah (USANYE) [Deborah.Zwany@usdoj.gov]
CC: Modigliani, Justine [Modigliani.Justine@epa.gov]; Feinmark, Phyllis [Feinmark.Phyllis@epa.gov]; McKenna, Douglas [McKenna.Douglas@epa.gov]; Green, Katherine [Green.Katherine@epa.gov]
Subject: RE: Northport

Great, thanks!

-----Original Message-----
From: Zwany, Deborah (USANYE) <Deborah.Zwany@usdoj.gov>
Sent: Tuesday, June 11, 2019 2:06 PM
To: Murphy, Kara <Murphy.Kara@epa.gov>
Cc: Modigliani, Justine <Modigliani.Justine@epa.gov>; Feinmark, Phyllis <Feinmark.Phyllis@epa.gov>; McKenna, Douglas <McKenna.Douglas@epa.gov>; Green, Katherine <Green.Katherine@epa.gov>
Subject: Re: Northport

Ex. 5 - Deliberative Process (DP) & Attorney Client

On Jun 11, 2019, at 1:40 PM, Murphy, Kara <Murphy.Kara@epa.gov<mailto:Murphy.Kara@epa.gov>> wrote:

Hi Deborah - Ex. 5 - Deliberative Process (DP) & Attorney Client Thanks!

From: Zwany, Deborah (USANYE) <Deborah.Zwany@usdoj.gov<mailto:Deborah.Zwany@usdoj.gov>>
Sent: Friday, May 31, 2019 9:45 AM
To: Modigliani, Justine <Modigliani.Justine@epa.gov<mailto:Modigliani.Justine@epa.gov>>; Feinmark, Phyllis <Feinmark.Phyllis@epa.gov<mailto:Feinmark.Phyllis@epa.gov>>
Cc: McKenna, Douglas <McKenna.Douglas@epa.gov<mailto:McKenna.Douglas@epa.gov>>; Green, Katherine <Green.Katherine@epa.gov<mailto:Green.Katherine@epa.gov>>; Murphy, Kara <Murphy.Kara@epa.gov<mailto:Murphy.Kara@epa.gov>>
Subject: RE: Northport

Ex. 5 - Deliberative Process (DP) & Attorney Client

Ex. 5 - Deliberative Process (DP) & Attorney Client

Have a good weekend.

From: Modigliani, Justine <Modigliani.Justine@epa.gov<mailto:Modigliani.Justine@epa.gov>>
Sent: Wednesday, May 29, 2019 7:13 AM
To: Feinmark, Phyllis <Feinmark.Phyllis@epa.gov<mailto:Feinmark.Phyllis@epa.gov>>
Cc: McKenna, Douglas <McKenna.Douglas@epa.gov<mailto:McKenna.Douglas@epa.gov>>; Zwany, Deborah (USANYE) <DZwany@usa.doj.gov<mailto:DZwany@usa.doj.gov>>; Green, Katherine <Green.Katherine@epa.gov<mailto:Green.Katherine@epa.gov>>; Murphy, Kara <Murphy.Kara@epa.gov<mailto:Murphy.Kara@epa.gov>>
Subject: Re: Northport

Ex. 5 - Deliberative Process (DP) & Attorney Client

Sent from my iPhone

On May 28, 2019, at 4:14 PM, Feinmark, Phyllis <Feinmark.Phyllis@epa.gov<mailto:Feinmark.Phyllis@epa.gov>> wrote:

Ex. 5 - Deliberative Process (DP) & Attorney Client

From: McKenna, Douglas
Sent: Tuesday, May 28, 2019 3:55 PM
To: Feinmark, Phyllis <Feinmark.Phyllis@epa.gov<mailto:Feinmark.Phyllis@epa.gov>>
Cc: Zwany, Deborah (USANYE) <Deborah.Zwany@usdoj.gov<mailto:Deborah.Zwany@usdoj.gov>>; Modigliani, Justine <Modigliani.Justine@epa.gov<mailto:Modigliani.Justine@epa.gov>>; Green, Katherine <Green.Katherine@epa.gov<mailto:Green.Katherine@epa.gov>>; Murphy, Kara <Murphy.Kara@epa.gov<mailto:Murphy.Kara@epa.gov>>
Subject: Re: Northport

Ex. 5 - Deliberative Process (DP) & Attorney Client

Ex. 5 - Deliberative Process (DP) & Attorney Client

On May 28, 2019, at 3:41 PM, Feinmark, Phyllis
<Feinmark.Phyllis@epa.gov<mailto:Feinmark.Phyllis@epa.gov>> wrote:

Ex. 5 - Deliberative Process (DP) & Attorney Client

From: McKenna, Douglas
Sent: Tuesday, May 28, 2019 3:37 PM
To: Zwany, Deborah (USANYE) <Deborah.Zwany@usdoj.gov<mailto:Deborah.Zwany@usdoj.gov>>
Cc: Modigliani, Justine <Modigliani.Justine@epa.gov<mailto:Modigliani.Justine@epa.gov>>; Green, Katherine <Green.Katherine@epa.gov<mailto:Green.Katherine@epa.gov>>; Feinmark, Phyllis <Feinmark.Phyllis@epa.gov<mailto:Feinmark.Phyllis@epa.gov>>; Murphy, Kara <Murphy.Kara@epa.gov<mailto:Murphy.Kara@epa.gov>>
Subject: Re: Northport

Ex. 5 - Deliberative Process (DP) & Attorney Client

On May 28, 2019, at 3:24 PM, Zwany, Deborah (USANYE)
<Deborah.Zwany@usdoj.gov<mailto:Deborah.Zwany@usdoj.gov>> wrote:

Ex. 6 - Deliberative Process (DP) & Attorney Client

Thanks.

From: Gallagher, Mark (ENRD) <MGallagher@ENRD.USDOJ.GOV<mailto:MGallagher@ENRD.USDOJ.GOV>>
Sent: Tuesday, May 28, 2019 3:22 PM
To: Zwany, Deborah (USANYE) <DZwany@usa.doj.gov<mailto:DZwany@usa.doj.gov>>
Cc: Silverman, Matthew (USANYE) <MSilverman@usa.doj.gov<mailto:MSilverman@usa.doj.gov>>
Subject: Re: Northport

Hi Deborah

Ex. 5 - Deliberative Process (DP) & Attorney Client

M

On May 28, 2019, at 3:10 PM, Zwany, Deborah (USANYE)
<Deborah.Zwany@usdoj.gov<mailto:Deborah.Zwany@usdoj.gov>> wrote:
Karen and Caroline,

Ex. 5 - Deliberative Process (DP) & Attorney Client

Ex. 5 - Deliberative Process (DP) & Attorney Client

Thanks again,

Deborah

From: Dworkin, Karen (ENRD) <KDworkin@ENRD.USDOJ.GOV<mailto:KDworkin@ENRD.USDOJ.GOV>>
Sent: Friday, May 24, 2019 3:04 PM
To: Zwany, Deborah (USANYE) <DZwany@usa.doj.gov<mailto:DZwany@usa.doj.gov>>; makepeace.caroline@epa.gov<mailto:makepeace.caroline@epa.gov>
Cc: Gallagher, Mark (ENRD) <MGallagher@ENRD.USDOJ.GOV<mailto:MGallagher@ENRD.USDOJ.GOV>>; Silverman, Matthew (USANYE) <MSilverman@usa.doj.gov<mailto:MSilverman@usa.doj.gov>>; Vagelatos, John (USANYE) <JVagelatos@usa.doj.gov<mailto:JVagelatos@usa.doj.gov>>; Feinmark, Phyllis (Feinmark.Phyllis@epa.gov<mailto:Feinmark.Phyllis@epa.gov>) <Feinmark.Phyllis@epa.gov<mailto:Feinmark.Phyllis@epa.gov>>; Murphy, Kara <Murphy.Kara@epa.gov<mailto:Murphy.Kara@epa.gov>>
Subject: RE: Northport

Thanks Deborah!

From: Zwany, Deborah (USANYE) <Deborah.Zwany@usdoj.gov<mailto:Deborah.Zwany@usdoj.gov>>
Sent: Friday, May 24, 2019 3:02 PM
To: Dworkin, Karen (ENRD) <KDworkin@ENRD.USDOJ.GOV<mailto:KDworkin@ENRD.USDOJ.GOV>>; makepeace.caroline@epa.gov<mailto:makepeace.caroline@epa.gov>
Cc: Gallagher, Mark (ENRD) <MGallagher@ENRD.USDOJ.GOV<mailto:MGallagher@ENRD.USDOJ.GOV>>; Silverman, Matthew (USANYE) <MSilverman@usa.doj.gov<mailto:MSilverman@usa.doj.gov>>; Vagelatos, John (USANYE) <JVagelatos@usa.doj.gov<mailto:JVagelatos@usa.doj.gov>>; Feinmark, Phyllis

(Feinmark.Phyllis@epa.gov<mailto:Feinmark.Phyllis@epa.gov>)
<Feinmark.Phyllis@epa.gov<mailto:Feinmark.Phyllis@epa.gov>>; Murphy, Kara
<Murphy.Kara@epa.gov<mailto:Murphy.Kara@epa.gov>>
Subject: RE: Northport

Ex. 5 - Deliberative Process (DP) & Attorney Client

From: Zwany, Deborah (USANYE)
Sent: Friday, May 24, 2019 8:58 AM
To: Dworkin, Karen (ENRD) (Karen.Dworkin@usdoj.gov<mailto:Karen.Dworkin@usdoj.gov>)
<Karen.Dworkin@usdoj.gov<mailto:Karen.Dworkin@usdoj.gov>>;
'makepeace.caroline@epa.gov<mailto:makepeace.caroline@epa.gov>'
<makepeace.caroline@epa.gov<mailto:makepeace.caroline@epa.gov>>
Cc: Gallagher, Mark (ENRD) <Mark.Gallagher1@usdoj.gov<mailto:Mark.Gallagher1@usdoj.gov>>; Silverman, Matthew (USANYE) <MSilverman@usa.doj.gov<mailto:MSilverman@usa.doj.gov>>; Vagelatos, John (USANYE) <JVagelatos@usa.doj.gov<mailto:JVagelatos@usa.doj.gov>>; Feinmark, Phyllis (Feinmark.Phyllis@epa.gov<mailto:Feinmark.Phyllis@epa.gov>)
<Feinmark.Phyllis@epa.gov<mailto:Feinmark.Phyllis@epa.gov>>; 'Murphy, Kara'
<Murphy.Kara@epa.gov<mailto:Murphy.Kara@epa.gov>>
Subject: Northport

Hello all,
I will be taking this case over from John Vagelatos. John is transferring to our Criminal Division in a couple of weeks.

Ex. 5 - Deliberative Process (DP) & Attorney Client

Ex. 5 - Deliberative Process (DP) & Attorney Client

Have a nice Memorial Day weekend.
Deborah

Deborah B. Zwany
Senior Litigation Counsel
United States Attorney's Office
Eastern District of New York
271 Cadman Plaza East
Brooklyn, New York 11201
(718) 254-6010

On May 23, 2019, at 11:53 AM, Silverman, Matthew (USANYE)
<MSilverman@usa.doj.gov<mailto:MSilverman@usa.doj.gov>> wrote:
Please see below for more context.
Truly,
Matthew Silverman
Assistant U.S. Attorney, EDNY

Begin forwarded message:
From: "Gallagher, Mark (ENRD)" <MGallagher@ENRD.USDOJ.GOV<mailto:MGallagher@ENRD.USDOJ.GOV>>
Date: May 23, 2019 at 11:46:39 AM EDT
To: "Dworkin, Karen (ENRD)" <KDworkin@ENRD.USDOJ.GOV<mailto:KDworkin@ENRD.USDOJ.GOV>>, "Beckmann, Diane (USANYE)" <DBeckmann@usa.doj.gov<mailto:DBeckmann@usa.doj.gov>>, "Silverman, Matthew (USANYE)" <MSilverman@usa.doj.gov<mailto:MSilverman@usa.doj.gov>>
Cc: "Makepeace, Caroline" <Makepeace.Caroline@epa.gov<mailto:Makepeace.Caroline@epa.gov>>
Subject: Re: Bookhaven and Northport
Diane and Matt

Ex. 5 - Deliberative Process (DP) & Attorney Client

(I'm on a short vacation, and not always easily available)

-Mark

On May 23, 2019, at 10:40 AM, Dworkin, Karen (ENRD)
<KDworkin@enrd.usdoj.gov<mailto:KDworkin@enrd.usdoj.gov>> wrote:
Mark –

Ex. 5 - Deliberative Process (DP) & Attorney Client

Ex. 5 - Deliberative Process (DP) & Attorney Client

Ex. 5 - Deliberative Process (DP) & Attorney Client

Thanks Mark.

MMP&S
MILBER MAKRIS PLOUSADIS & SEIDEN, LLP
ATTORNEYS AT LAW
1000 WOODBURY ROAD SUITE 402 WOODBURY, NY 11797
TELEPHONE: 516.712.4000 FAX: 516.712.4013
HTTP://WWW.MILBERMAKRIS.COM

February 5, 2018

U.S. Department of Justice
United States Attorney's Office
Eastern District of New York
271 Cadman Plaza East
Brooklyn, New York 11201

Attention: John Vagelatos, Assistant United States Attorney Civil Division

Kara E. Murphy, Asst Regional Counsel
U.S. EPA, Region 2
290 Broadway, 16th Floor
New York, New York 10007

Re: Incorporated Village of Northport

Please accept this letter and documentation in furtherance of our recent telephone conversation and our previous submissions. This letter is to request to include expansion of our sewer system as a Supplemental Environmental Project (SEP) to mitigate any potential penalties assessed against the Village of Northport. I have attached the report prepared by J.R. Holzmacher P.E., LLC., entitled *Sanitary sewer study for Steers Pitt and Bluff Point Road Areas Inc. Village of Northport Suffolk County, NY* dated July 28, 2017, explaining the project. The premise of the project is to expand the sewer system to include taking off 149 homes and 2 commercial buildings from their current use of cesspools, septic tanks and leaching pools which discharge nitrates and pollutants to Northport Harbour. By placing these homes and commercial properties onto our sewer system, it will significantly reduce the nitrates and related-point source pollution that reaches Northport Harbour and eventually flows into the Long Island Sound. It is important to note that the homes located on Steers Pit and Bluff Point Road are homes on or close to the water. The first phase in taking the properties off the cesspool system and placing them on to our existing sewer system, is to first design and then install the system. This includes, but is not limited to installing pipes, manholes, and connecting the homes on Steers Pit and Bluff Point Road to our waste water treatment plant. This project is the most pro-active project to date to reduce pollutants in Northport Harbour. However, it is very expensive and we believe that any proposed penalty be used for this project through a SEP.

The cost and scope of the project is approximately the following. The engineers cost alone is approximately $126,750.00. I have attached a copy of J.R. Holzmacher P.E., LLC., consulting engineers proposal to extend the sanitary sewer collection system to Steers Pitt and Bluff Point Road areas dated January 16, 2018. The approximate anticipated cost of the construction (competitive bidding will be used as required by law) which entails the installation of approximately 13,295 feet of 8 inch sanitary pipe at an approximate cost of $3,190,800; 95 sewer manholes that would cost approximately $1,852,500; Steers Pitt area connections at an approximate cost of $1,860,000; Bluff Point area connection at an approximate cost of $810,000.00, and pavement restoration at an approximate cost of $2,068,111. The project also contemplates replacing the existing pump station at a cost of $450,000.00, and a backup generator that will cost approximately $400,000,00. The

approximate total cost of the sewer expansion project is close to $11 million dollars when completed. Please see Holzmacher report Table 2 dated July 28, 2017.

Pursuant to our recent telephone conversation, I informed you that the 11 million dollar cost would be partly funded by a New York State grant that we were recently awarded in the sum of 5 million dollars. As you might imagine the Village was very excited in hearing the news of this award. However, we are still approximately 6 million dollars short in undertaking this project. Obviously any penalty assessed against the Village would set this project back or even curtail it indefinitely.

In our opinion, this project of expanding our sewer system to connect 151 properties to our sewer system and taking these projects of cesspools, septic tanks and leaching pools which discharge nitrates and other pollutants to the harbour, is exactly the type of project that qualifies as a Supplemental Environmental Project (SEP). As you know, the 2015 update identifies seven categories of projects which may qualify as SEP. The 2015 update specifically states, "many SEPs may fall into more than one category." Once again in reviewing the categories identified by the EPA in its 2015 Supplemental Update, we believe that this project falls under Category B, Pollution Prevention, Category C Pollution Reduction, and Category D Environmental Restoration and Protection.

We would respectfully request that you review Category C Pollution Reduction. Under this category, "if a pollutant or waste system already has been generated or released, a pollution reduction approach which employs recycling, treatment, containment or disposal techniques may be appropriate" It goes on to state that "a pollution reduction project is one which results in a decrease in the amount and/or toxicity of any hazardous substance, pollutant, or contaminant entering any waste stream or otherwise being released into the environment." This type of SEP may include installation of a more effective end-of process control or treatment technology, improved containment, or safer disposal of an existing pollution source.

Additionally, pursuant to the 2015 update, projects that do not fit within one of the seven categories, but have environmental and/ or public health benefits and are otherwise fully consistent with all other provisions of this policy are allowable as a SEP. Once again the current project undertaken by the Village of Northport has tremendous environmental and public health benefits. If the EPA permits this project to be included as a SEP it will directly benefit the public and environment. It is exactly the type of project that the EPA had in mind to secure significant environmental and public benefits beyond those achieved by compliance and helps to address the needs of communities. We respectfully request that this environmentally beneficial project undertaken by the Village of Northport be used to mitigate any penalties (if any) assessed against the Village of Northport.

The public health benefits of the substantially reduced nitrogen and bacteria levels to Northport Harbour are overwhelming. The benefit of approximately 150 properties connected to the Northport Sewer Facility instead of the use of environmentally unfriendly cesspools is tremendous. Once again, it is important to note that this project is not required or mandated by any federal, state or local law or regulation. The Village of Northport is voluntarily undertaking this project. Nevertheless, the environmental benefit to the public is great.

We are respectfully requesting that this this project be considered in mitigating any civil penalties that may be assessed against the Village of Northport. We request that any monies that may be levied against the Village of Northport for past alleged violations be used to support and fund this project. This project furthers the EPA's mission and goal to protect public health and the environment.

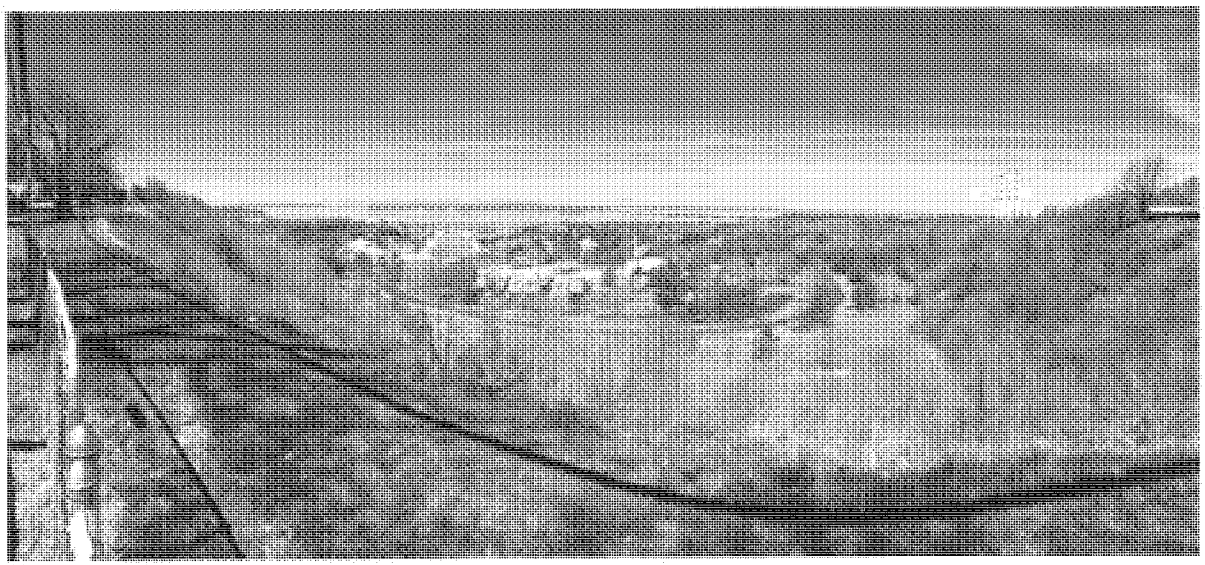
If you need any additional information and/or documentation, please feel free to contact the undersigned. Thank you once again for your continued courtesy and cooperation with regard to this matter.

STUART P. BESEN, Northport Village Attorney

SPB:lm

SANITARY SEWER STUDY FOR STEERS PIT AND BLUFF POINT ROAD AREAS INC. VILLAGE OF NORTHPORT SUFFOLK COUNTY, NY

July 28, 2017



PREPARED BY:
J.R. Holzmacher P.E., LLC
Consulting Engineers

3555 Veterans Memorial Highway, Suite A
Ronkonkoma, N.Y. 11779-7636

Phone: 631-234-2220 Fax: 631-234-2221

Contents

1.0 Background and Purpose **1**
1.1 Sanitary Sewer System Description 1
1.2 Anticipated Growth 2
1.3 Current Sanitary Sewer & WRRF Situation 2
2.0 Field and Record Investigations **3**
2.1 Available Records 3
2.2 Field Investigation 3
3.0 Conceptual Design **4**
3.1 Steers Pit Area 4
3.2 Bluff Point Road Area 8
3.3 Alternate Construction Methods 9
3.4 Summary of Conceptual Gravity Sewers 9
3.5 Evaluation of Pump Stations and Force Mains 10
3.6 Evaluation of Alternative On-site Sewage Disposal Systems 13
4.0 Conclusions and Recommendations **13**
4.1 WRRF Impacts 13
4.2 Conceptual Gravity Sewer 14
4.3 Pump Stations and Force Mains 14
4.4 Costs 14
5.0 References **15**

List of Figures

1 Village Location
2 "Steers Pit" and Bluff Point Road Areas
3 Sanitary Sewer Collection System
4 Conceptual Sanitary Sewer Extension Area
5 Conceptual Sanitary Sewer Extension Area (Aerial)
6 GW Contributing Area to Surface Waters – Travel Time in Years

List of Appendices

A Infiltration/Inflow Analysis of the Sewer Districts of Northport and Centerport
B Map of Harbour Point at Northport Sewerage System
C Northport Sewerage System
D Harbour Point Drive lift station
E JRH Field Investigations

Total Production Set 6.30.21 ED_004082B_00013062-00005

Inc. Village of Northport
Sanitary Sewer Study for Steers Pit
And Bluff Point Road Areas

1.0 Background and Purpose

The Inc. Village of Northport is located on Long Island on the north shore of Suffolk County on the eastern coast line of Northport Harbor as shown on **Figure 1**. The Village has requested that J.R Holzmacher P.E., LLC prepare a report to determine the feasibility and costs associated with the installation of new sanitary sewers to service the existing properties in the area known as Steers Pit along with the Bluff Point Road area. The area residents, park and commercial property is currently served by individual on site sanitary systems. These systems are made up of cesspools or septic tanks and leaching pools. This results in direct discharge of wastewater on a daily basis to each individual property. See **Figure 2** for the location of Steers Pit and Buff Point Road area.

The Steers pit area is generally bounded on the east by Ocean Avenue, the north by Eatons Neck Road, the south by James Street and the west by the Northport Harbor. The area terrain was formed during the mid-1940s through the mid-1960s by way of mining the sand and gravel. It is evident through historic aerial photos that some of the first homes were being built, approximately four, during 1966. The road network for the future neighborhood was being established at that time as well. Between 1966 and 1979 the entire development appears to have constructed 90 percent of the homes that exist in the area today. By establishing these construction dates, it allows us to determine the original age of most of the individual on site sanitary systems. This also establishes the time frame and duration of on-site wastewater discharge contribution to the area hydrogeology.

In general, connection of existing homes to the sanitary sewer system is required in order to reduce the quantity of nitrates and related non-point source pollution that reach Northport Harbor. Utility improvement projects, including additional sanitary sewers and lift stations, and expansions of selected treatment processes at the WRRF must be evaluated to support this potential growth in wastewater flows.

1.1 Sanitary Sewer System Description

The Village operates its own sanitary sewer collection and treatment system that serves the Village population of 7,753 residents (2010 Census) within a 2.3 square mile area, plus a small service area outside of the Village boundaries. The majority of commercial and water front users are located within the sewered areas. There are still many areas of the Village not sewered at this time. Non-sewered areas consist primarily of residential neighborhoods with single family homes. These remaining homes are still serviced by on-site cesspool systems.
The sanitary wastewater from the Village collection system is treated at the Water Resource Recovery Facility (WRRF) which is located on the southeast shore of Northport Harbor. The plant treats sewage collected both from within the Village boundaries, from the unincorporated

"Harbor Circle Sewer" area and from the Centerport Sewer District, which is administered by the Town of Huntington. The plant discharges treated effluent to an outfall pipe into Northport Harbor, and these flows are diluted by tides and currents and eventually reach the Long Island Sound. Discharges from the plant are regulated under the New York State Pollution Discharge Elimination System (SPDES) program, with a SPDES Permit number of NY-0024881.

The sanitary sewer collection system consists of over 26,000 feet of gravity sewer main ranging in size from 8-inch to 10-inch diameter, plus five lift stations and portions of force mains. The existing gravity sewers are primarily vitrified clay (VC) with smaller amounts of Transite (asbestos cement) pipe with some newer polyvinyl chloride (PVC) installations. Existing force mains are constructed of cast iron (CI). Recent improvements have included installation of thermoset plastic liners within many sections of gravity sewer pipe, especially those pipes located near the shoreline. Manholes are constructed of brick and masonry and some of these have been sealed and lined in conjunction with the sewer lining work. The existing sanitary sewer collection system is shown in **Figure 3**.

1.2 Anticipated Growth

Wastewater flows generated by existing customers will be generated in proportion to the potable water used by those customers. In general, only slight to modest increases are expected for most existing residential customers already connected to the sanitary sewer system. Some residential areas which are now serviced by cesspools will eventually be connected to the sewer system. The Village is committed to accept up to 56,000 gallons per day (gpd) of sewage flow from the Town of Huntington administered Centerport Sewer District. The existing treatment capacity of the WRRF is adequate to handle these future flows.

1.3 Current Sanitary Sewer & WRRF Situation

No expansion of the sewered area is required to make lots buildable or from a public health standpoint. The Village is committed to continuing long term reduction of total nitrogen reaching Northport Harbor. One method of achieving this goal will be to connect homes that are now on cesspools to the sewer system. Cesspools located near the shoreline and in areas with shallow depths to groundwater are the highest priority for replacement. A priority focus of the Village is to add the Steers Pit and Bluff Point Road areas to the sewer collection system. This area currently contains 149 residential homes and 2 commercial buildings. The entire Steers Pit area is essentially built out to its maximum density with no ability, or very limited ability, to land divide or build additional residential or commercial sites. This additional loading is projected to average 40,000 gallons per day of relatively weak domestic wastewater. This additional flow can be handled by the treatment capacity of the WRRF as now configured.

2.0 Field and Record Investigations

2.1 Available Records

In order to properly assess the potential for additional new sanitary sewer collection system facilities, JRH requested available record information from the Village. The Village has provided JRH with scanned paper records of the overall sanitary collection system mapping along with the Harbour Point Drive lift station information. The "Infiltration/Inflow Analysis of the Sewer Districts of Northport and Centerport" mapping by Allen & Grant, P.C. is dated 1978. This basic collection system mapping provides an overall of the system indicating sanitary manhole and piping locations without sizes or dimensions, see **Appendix A**. Another source of information provided was the "Map of Harbour Point at Northport Sewerage System" by Allen & Grant, P.C. dated 1981, see **Appendix B**. Based on the location of the non-sewered areas of Steers Pit and Bluff Point Road, the Harbour Point mapping is valuable in determining potential use of existing facilities to convey additional sanitary sewer flow. This mapping indicates existing numbered sanitary manhole locations and rim elevation information. A third source of scanned record mapping provided was the "Northport Sewerage System" by Allen & Grant, P.C., with no date. This mapping includes 10 sheets of fairly detailed information, including pipe size, pipe length, flow direction, manhole ID, with rim and invert elevations for the entirety of the collection system except for the Harbour Point area, see **Appendix C**. We approximate the date of this mapping to be late 1970s based on the lack of the Harbour Point area but includes the condominiums at Fairwind Court. Again, this is valuable information in determining potential tie-in points for new sewer flow additions. Along with mapping, record information regarding the Harbour Point Drive lift station was available and is included as **Appendix D**. This document, dated 9-20-83, indicates the mechanical and controls equipment selected for the lift station operations as well as design criteria information. This will be important in evaluating effective reuse, upgrade or replacement value in adding additional sanitary flows.

2.2 Field Investigation

In order to further assess the potential for additional new sanitary sewer collection system facilities and their ability to tie-in to existing facilities, JRH recommended a limited field investigation be performed. After review of available mapping information, JRH selected a number of existing sanitary manholes to visit and gather relevant information.

Village staff have provided access to select sanitary manholes within the Harbour Point area, Bluff Point Road area, Bayview Avenue and the Fairwind Court condominium area. JRH documented the individual manhole information regarding construction make-up, depths, pipe sizes, flow direction and general functioning quality or deterioration of the facilities. The field investigation information is included in **Appendix E**.

In general, after reviewing the Harbour Point area manhole information, it is evident that the manhole structures and piping are in good condition and are constructed to the same modern standards as outlined within the current "Standards for Approval of Plans and Construction For Sewage Disposal Systems For Other Than Single–Family Residences". This provides the basis for evaluating potential use of existing constructed facilities for supporting additional sanitary

flows.

The Harbour Point area "Lift Station" was constructed for the sole purpose of conveying collected wastewater from the Harbour Point condominiums to a point on Bayview Avenue discharging into existing gravity sewer. The lift station also contains an emergency backup power generator for the sole purpose of continued lift station operations during a power outage.

Based on the mapping provided and the field investigations, the Harbour Point area sanitary collection system serves as an independent gravity sewer system up to its last and deepest manhole located at the lift station.

3.0 Conceptual Design

3.1 Steers Pit Area

JRH utilized available digital base mapping information provided by Suffolk County Real Property to the Town of Huntington and then shared with the Village in a geographic information system, (GIS) format. Using this base mapping information provides a higher level of accuracy when establishing conceptual layouts. When actual design efforts are contemplated, field survey work must be performed to generate acceptable plans for review by regulatory agencies and for construction purposes.

The available GIS data primarily provides a parcel layer, buildings layer and a two foot topographic ground contour layer. JRH used this information, supplemented with aerial photography to create a base for the conceptual sanitary sewer layout. **Figure 4** shows the layout of gravity sanitary sewers within the road right-of-ways of the Steers Pit and Bluff Point Road areas. **Figure 5** shows the same layout supplemented with aerial photography in the background.

The layout of manhole spacing and pipe runs was given careful consideration based on the existing indicated topography. The primary focus of the layout was to direct sanitary flows to the area with existing sanitary facilities for potential use. Porpoise Court has certain homes connected to existing sewer within the roadway. The existing sewer from Porpoise flows to the Harbour Point area collection system. This is an area of focus for potential connection of new sewers.

While considering all of the Steers Pit area for traditional designed gravity sewers, there may be certain homes that will require the use of pump stations to reach the proper elevation of the new sewer in the roadway. As indicated in the introductory information, the Steers Pit area terrain is manmade as a result of mining operations. The lowest grade elevation within the potential sewer area is elevation 18, which is 18 feet above mean sea level. The highest elevation is about 46 at the Northport Fire Department property on Clipper Drive. The average grade elevations across the middle portion of the area are 34 to 42. The existing functional conditions of on-site cesspools is unknown at this time, but the depths of the bottom of cesspools may vary from 8 feet above sea level to 30 feet above sea level. This information is important for developing the most cost effective design of the gravity sewers with respect to excavation depths and using the existing grades in the most advantageous way possible.

Photo 1 below, shows a typical roadway within the Steers Pit area, which is a standard width of pavement, no concrete sidewalks and no above ground utilities. Sanitary sewer piping and manholes would be installed, in as much as possible, within the middle of the roadway.

Photo 1 – Clipper Drive and Schooner Road, looking northeast.

There are several other roadways within the Steers Pit area that do not have concrete curbs which would be eliminated as a restoration item of concern when considering construction costs in the area. **Photo 2** below represents one of those areas at a transition point.

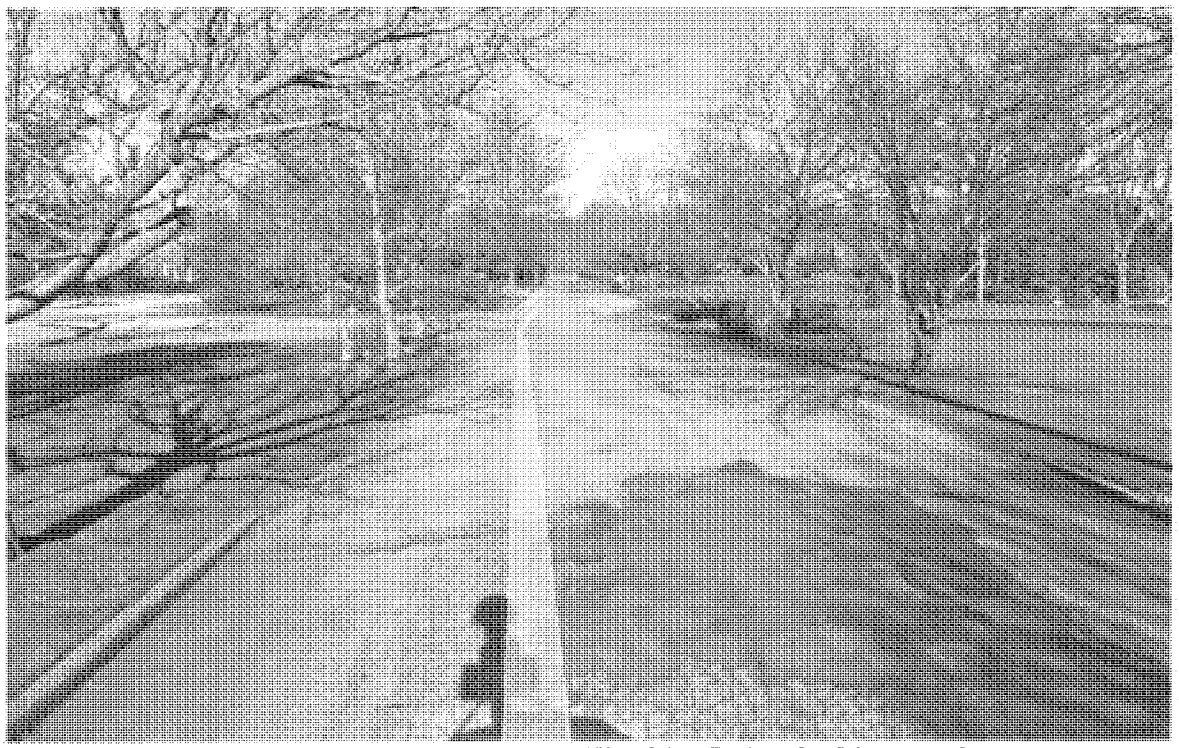


Photo 2 – Steers Avenue near Hawkins Drive, looking north.

Photo 3 below shows where the greatest change in elevation begins at Steers Avenue and Clipper Drive looking southeast. Prior to looking at the topography in this area, Steers Avenue may have been considered a route for a proposed force main to convey wastewater up the hill to the end of the sewer collection system at Ocean Ave and James Street. After careful review of the grade difference of 100 feet, it is not considered a cost effective alternative route. The pumping station electric costs for the much larger pumps and larger backup generator system deem this an inappropriate consideration.

Photo 3 – Steers Avenue at Clipper Drive, looking uphill, southeast.

3.2 Bluff Point Road Area

The Bluff Point Road area, for the purposes of considering sanitary connections, contains 26 residential homes and 1 commercial site. The area, includes Bluff Point Road, Cairo Avenue and Duffy Court. All but a few homes at the southerly portion near James Street have on-site sanitary discharge. The 1 commercial site is located at 11 Bluff Point Road and is the Northport Yacht Club. The club contains a restaurant serving the public with the ability to seat 140 people in the dining room. Most of the balance of the homes on the west side of Bluff Point Road have water frontage on the westerly portion of their property. The homes are situated closer to the waterfront than the roadway which may require the use of small pump stations to convey generated wastewater to new sewer contemplated for the middle of the roadway of Bluff Point Road. Each of the homes on the west side of Bluff Point Road average 300 to 350 feet from the roadway. The average ground elevations along Bluff Point Road, Cairo Avenue and Duffy Court are between 26 to 32 feet above mean sea level. See **Photo 4** below for the typical road and topography of Bluff Point Road.

Photo 4 – Bluff Point Road at Northport Yacht Club, looking north.

The balance of homes on the easterly side of Bluff Point Road and the homes on Cairo Avenue and Duffy Court are more easily serviced by traditional gravity sewer connections to new sewer in the roadway.

3.3 Alternate Construction Methods

Consideration should be given to trenchless construction technologies as an alternative to open trench construction. In accordance with the 2014 Edition of the "Recommended Standards for Wastewater Facilities", "Such designs may be approved by the reviewing authority on a case by case basis under the provisions of Paragraph 53.2". It is recommended that if the Village moves forward with soliciting bids for the construction of the conceptual work presented within this report, that alternate bids for horizontal directional drilling, (HDD) of gravity sanitary sewers be within the bid documents. With the use of HDD in many areas of underground utility construction, the ability to receive reasonable competitive bids from highly skilled contractors is becoming more common and available for Long Island work. Also with the use of HDD there may be opportunities for the installation of less sanitary manholes due to the potential of some curvilinear pipe installations. These design elements would require approval by the Suffolk County Department of Health. Generally, approval may be granted for curvilinear alignment of sewers larger than 24 inches. The pipe sizes considered for these areas would be 8-inch or possibly 10-inch. HDD curvilinear pipe installation should still be presented to the County for approval.

3.4 Summary of Conceptual Gravity Sewers

Upon developing the conceptual sanitary sewer piping and manhole layouts for the Steers Pit area and the Bluff Point Road area utilizing best available resources, JRH was able to establish the quantities of proposed construction materials, as indicated in **Table 1** below.

Table 1 – Unit Quantities of Conceptual Sanitary Sewer.

ITEM DESCRTIPTION	COUNT	UNIT TYPE
Steers Pit Area	123	Residential Homes
Steers Pit Area	1	Commercial Bldg
Bluff Point Area	26	Residential Homes
Bluff Point Area	1	Commercial Bldg
Sewer Manholes	95	Units
8-Inch Sanitary Sewer Pipe	14,485	Linear Feet
10-Inch Sanitary Sewer Pipe	N/A yet	Linear Feet
Pavement Restoration	16094	Square Yards

In developing construction cost estimating for municipal type projects, such as those considered within this report, some of the most accurate information can be derived from the latest bids received on similar municipal projects. Although there are resources such as "RSMeans – Cost Data", to develop detailed construction costing information, they generally cannot reflect the local nuances which impact costs. In the case of this particular report, JRH has used recent municipal bids and verbal interviewing of potential eligible contractors for current costing information. See **Table 2** below for a summary of potential construction costs associated with

the **Table 1** information.

Table 2 – Conceptual Construction Costs for Collection System

ITEM DESCRTIPTION	Quantity	Unit	Unit Price	Totals
Steers Pit Area (House Connections)	123	Each	$ 15,000	$ 1,845,000
Steers Pit Area (Comm Connections)	1	Each	$ 15,000	$ 15,000
Bluff Point Area (House Connections)	26	Each	$ 30,000	$ 780,000
Bluff Point Area (Comm Connections)	1	Each	$ 30,000	$ 30,000
Sewer Manholes	95	Each	$ 19,500	$ 1,852,500
8-Inch Sanitary Sewer Pipe	13,295	Linear Ft	$ 240	$ 3,190,800
Pavement Restoration	14,772	Sq Yds	$ 140	$ 2,068,111
			Total	$ 9,781,411
* Note: Steers Park and Steers Beach Park are not counted in this table.				

The cost estimate above in **Table 2** is for the sanitary sewer collection system only for the Steers Pit and Bluff Point Road areas. It also does include costs for completing the sanitary service connection to the residential or commercial site. These costs are normally borne by the property owner and the sanitary spur is installed to the property line only during installation of the main sanitary lines in the roadway. As indicated above, the Steers Park and Steers Beach Park are not considered within this cost estimate. The facilities are owned and maintained by the Village. It is recommended to request from the Health Department that these facilities remain in operation as on-site sanitary discharge. Due to the limited restroom facilities at both of these locations and operated on a limited seasonal basis, it would be prudent to request relief from connecting to the proposed sanitary sewer collection system. As represented on the mapping data, the bathroom facilities are located several hundred feet from what would be the new available sanitary lines.

3.5 Evaluation of Pump Stations and Force Mains

In an effort to consider the use of existing sanitary facilities for this proposed expansion to the sewered areas, JRH has evaluated the construction of sanitary pump stations and force mains. Due to the existing topographic elevations in the Steers Pit area, there is a limit to the ability to run gravity sewer back to an existing end manhole. Therefore, based on the conceptual layout indicated in **Figure 4**, the practical location for a pump station would be in or near the Porpoise Court location. The pump station conceptually could collect all contributory flow from the entire Steers Pit area and pump to an existing modified end manhole in Porpoise Court or nearby manhole off Steers Avenue or in the Harbour Point development. This flow would then continue by gravity to the lift station at Harbour Point condominiums. As mentioned previously, this lift station was designed for the sole use of the condominiums and was not anticipated to serve the entire Steers Pit area. If this conceptual design of pump station at or near Porpoise Court is

selected, the Harbour Point lift station must be modified or abandoned after a new additional pump station is constructed. Based on the age of the lift station and force main leaving the area being approximately 34 years old, it would be recommended to install new cement lined ductile iron (CLDI) pipe as a replacement force main. This replacement force main length would be approximately 1,650 feet to Bayview Avenue if the same end point for discharge would be selected. With the potential construction of a pump station at Porpoise Court, there will be the requirement of a backup emergency generator. A generator could be located at the nearby Northport Fire Department property on Clipper Drive approximately 1,000 feet away.

An option for an upgrade to the Harbour Point lift station exists in the form of an in place upgrade. The original equipment installed, **Appendix D**, manufactured by Smith & Loveless, Inc. labels the product as a (Du-O-Ject) Ejector Station with an operating capacity of 100 gpm. The Smith & Loveless company is still in operation and has a "Wet Well Mounted Pump Station conversion package" available for the "Du-O-Ject" 1983 lift station, if evaluated as a cost effective design option. See **Photo 5** below at the Harbour Point lift station.

Photo 5 – Harbour Point Lift Station, looking west.

Another alternative considered, is leaving the Harbour Point lift station in place to perform its normal operations without modification. Then construct a pump station at Porpoise Court with force main running from Porpoise Court through the Harbour Point condominium area to new gravity sewer installed at Bluff Point Road. This Bluff Point sewer would then tie in to existing gravity sewer on Bayview Avenue. The approximate length of force main from Porpoise Court to a proposed manhole on Bluff Point Road may be 2,700 feet long. The force main route could follow the path of the existing gravity sewer installed through the Harbour Point area, offset a few feet from the existing pipe at a shallow depth of bury. Generally, new force main can be installed 4 to 5 feet below grade. This alternative would save the cost of constructing a second pump station, or modified pump/lift station, but would add the cost of longer force main. If we were to apply a $180 per linear foot cost for 6 inch sanitary force main pipe installation for 2,700 linear feet, the cost would be approximately $486,000. This cost may be lower based on a high percentage of the proposed pipe run being installed in a grassed area. See **Photo 6** below at the Harbour Point condominium properties.

Photo 6 – Harbour Point properties, looking west.

Based on recent bids received by the Village for the Shoreline Sewer project, a new pump station may cost approximately the same amount as the proposed force main above. The costs for a new emergency backup generator, housing, electrical and controls could be $ 350,000 to $ 400,000.

Other elements to consider, is if the Harbour Point lift station is modified to accept additional flows, the existing backup power generator will likely need replacement to meet the additional power requirements. Although there would be more effort and costs to prepare design plans with alternate installations of an additional pump station versus additional force main, it would be fiscally responsible for the Village to receive alternate bids and evaluate the cost comparison.

3.6 Evaluation of Alternative On-site Sewage Disposal Systems

The Suffolk County Department of health Services (SCDHS) reports that discharges from residential leaching systems typically have nitrate concentrations of 65 mg/l and that they have seen cases where the concentration was 100 mg/l. This compares to a desired surface water concentration of 0.4 mg/l to maintain strong root structures for aquatic plant life. The County is now implementing a program for Innovative/Alternative On-site Wastewater Treatment Systems (I/A OWTS). These systems include partial treatment of nitrates and have been able to achieve reductions of leaching pool effluent strength to 19 mg/l, with further reductions possible within the surrounding soils. The flow effluent from the leaching pools where soils are very coarse, such as in the Steer's Pit area, travels unimpeded and reaches the water table very rapidly. This results in little or no reduction of nitrates or total nitrogen. See **Figure 6** which indicates "Areas Contributing Groundwater to Surface Waters" in the Village of Northport area. The Steers Pit area and the Bluff Point Road area depict a travel time in years of 0 to 2 from groundwater to surface water. Many locations within Northport have soils that are too porous to achieve meaningful further reductions of nitrogen, so the use of I/A OWTS is not a recommended alternative in comparison to installation of new sewers for the greatest impact to nitrogen reduction.

4.0 Conclusions and Recommendations

4.1 WRRF Impacts

The wastewater system improvements implemented in recent years have been effective in reducing the WRRF effluent nitrogen to within the severe limitations of the SPDES permit. These limitations require that the plant be run beyond the theoretical capabilities of the nitrogen removal technologies.

The Steers Pit and Bluff Point Road area additional loading is projected to have a peak load of 49,155 gpd with an average flow probably less than 40,000 gpd, of moderate to weak domestic wastewater. This is an increase to the existing plant flows of approximately 20% to 25% compared to current flows. This additional BOD and total Nitrogen loading can be handled by the treatment capacity of the WRRF as now configured.

An increase in the capacity of the equalization tank is highly desirable from a daily operating standpoint, in order to handle the increased flow from the Steer's Pit- Bluff Point extension, and in order to most reliably optimize flow rates and nitrogen removal throughout the rest of the plant.

4.2 Conceptual Gravity Sewer

The conceptual sanitary sewer layouts indicated in Figures 4 and 5 are in accordance with State and County guidelines and best management practices. These conceptual layouts can be used as a guide for the development of plans and specifications, designed by a licensed engineer in the State of New York. A design report must be created as a supplement to plans and specifications for approval by the regulatory agencies. The appendices and figures within this study can serve as base information for the required engineering report.

4.3 Pump Stations and Force Mains

The conceptual discussions in Section 3.5 above regarding alternate layouts for pump stations and force mains needs further evaluation from a cost perspective. Ultimately the only way to determine true costs for upgrading an existing lift station or installation of a new pump station is by the solicitation and receipt of bids through the municipal bidding process. It is recommended to prepare design plans indicating alternate layouts in order for the Village to make well informed decisions regarding short and long term costs and impacts.

4.4 Costs

As indicated in section 3.4, the estimated costs for installation of gravity sewer piping, manholes and restoration may be about $ 9,800,000. These costs include the installation of connecting the existing homes to new sanitary service lines to new sanitary within the roadway. Village costs may be reduced if the property owners were to pick up the costs for their connection at a sanitary spur at each property line. Generally the costs for work performed on private property are borne by the property owner.

Costs associated with an individual new pump station may be around $ 450,000. A backup power generator with enclosure, electrical and controls could be approximately $ 350,000 to $ 400,000. If alternates are solicited for new 6-inch CLDI or High Density Polyethylene, HDPE, force mains the costs may be $ 150 to $ 180 per liner foot.

Overall for all work contemplated within this study, and not considering the separate cost for WRRF upgrades, the construction costs may be $ 11,000,000.

An additional alternative for consideration is to properly design the new Bluff Point Road area sewers to be able to be constructed in advance of the Steers Pit area and function independently. This may be a recommendation dependent on available incremental funding over multiple years.

As economic conditions vary, contractor's costs vary greatly. This has been evident in the past years from 2010 through 2017 on Long Island. While Long Island is indicating a stable economy currently, and there are many large construction projects across the Island in progress, this makes it difficult to obtain a large number of competitive bidders. The projects contemplated within this study are relatively not complex and there are many construction firms qualified to perform this specific work.

5.0 References

1. Gannett Fleming, "Village of Northport Wastewater Treatment Plant Phase II Facility Plan", Woodbury, NY, August 2010.

2. "Interim Standards - Approval of Plans and Construction - Sewage Disposal Systems For Single–Family Residences", Suffolk County Department of Health Services, Division of Environmental Quality, Suffolk County, NY, September 2016.

3. "Recommended Standards for Wastewater Facilities, Policies for the Design, Review, and Approval of Plans and Specifications' for Wastewater Collection and Treatment Facilities, A Report of the Wastewater Committee of the Great Lakes-Upper Mississippi River Board of State and Provincial Public Health and Environmental Managers", Health Research, Inc., Health Education Services Division, Albany, NY, 2004.

4. "Standards for Approval of Plans and Construction For Sewage Disposal Systems For Other Than Single–Family Residences", Suffolk County Department of Health Services, Division of Environmental Quality, Suffolk County, NY, July 2008.

5. "Standards for Approval of Plans and Construction For Sewage Disposal Systems For Other Than Single–Family Residences", Suffolk County Department of Health Services, Division of Environmental Quality, Suffolk County, NY, December 2009.

6. "Areas Contributing Groundwater to Surface Waters Northport Village", Suffolk County Department of Health Services, Office of Water Resources, Suffolk County, NY, Date unknown, approximately 2015.

Figures

Posillico Civil, Inc.

1750 New Highway
Farmingdale, N.Y. 11735
Contact: Jim Meystrik
Phone: 516-523-6613
Fax: 631-249-8124

Quote To: JR Holzmacher PE, LLC
3555 Veterans Memorial Highway, Suite A
Ronkonkoma, NY 11779
Phone: 631-234-2220
Fax: 631-234-2221
Attn: Anthony J. Zalak
Bid No:

Job Name: Steers Pit Sewer
Date of Plans:
Proposal Date: 5/26/17

ITEM	DESCRIPTION	QUANTITY	UNIT	UNIT PRICE	AMOUNT
1000	Steers Pit Res HC	123.00	EA	15,000.00	1,845,000.00
2000	Bluff Point Res HC	26.00	EA	15,000.00	390,000.00
3000	Bluff Point Comm HC	1.00	EA	30,000.00	30,000.00
4000	4' MH x 8' Deep	94.00	EA	19,500.00	1,833,000.00
5000	8" Sanitary Sewer	14,035.00	LF	240.00	3,368,400.00
6000	Pavement Removal/ Restoration	15,594.00	SY	140.00	2,183,160.00
GRAND TOTAL					**$9,649,560.00**

J.R. Holzmacher P.E., LLC

3555 Veterans Highway Ronkonkoma, New York 11779-7636
Tel: (631) 234-2220 Fax: (631) 234-2221 e-mail: info@holzmacher.com

January 16, 2018

Hon. George Doll, Mayor
Village of Northport
224 Main Street
Northport, New York 11768

Re: Proposal for Engineering Services
Steers Pit Sanitary Sewer

Dear Mayor Doll:

Thank you for considering J.R. Holzmacher P.E., LLC (JRH) Consulting Engineers, to provide professional engineering services in support of extending the sanitary sewer collection system to the Steers Pit and Bluff Point Road areas.

This proposal is focused on those engineering tasks required to secure regulatory approval and to promptly solicit competitive bids. The design plans for construction will initially be based on the report prepared for the Village dated July 28, 2017, titled Sanitary Sewer Study for Steers Pit and Bluff Point Road areas. As field efforts to obtain existing topographic and utility information progress, the design efforts will be tailored towards the most cost effective and feasible routes for installation of new sanitary.

Our office has made contact with the Suffolk County Department of Health Services, (SCDHS) to determine necessary submittals for their review and approval. We have also called the Town of Huntington to confirm if any concurrent reviews will be necessary by any Town Departments. The Health Department will require the "APPLICATION FOR SEWAGE DISPOSAL FACILITIES AND WATER SUPPLY SYSTEMS FOR OTHER THAN SINGLE FAMILY RESIDENCES" be completed along with design plans. They indicated that a design report will be required for any new pump stations contemplated. The SCDHS will forward along design plans to the Department of Environmental Conservation, (DEC) for concurrent review.

Following are the Tasks we anticipate to complete the engineering efforts for this project.

Scope:
Task 1 – Design Plans, Specifications and Regulatory Support

The design plans and specifications shall be prepared in accordance with SCDHS requirements and in accordance with "Recommended Standards for Wastewater Facilities", A Report of the Wastewater Committee of the Great Lakes--Upper Mississippi River Board of State and Provincial Public Health and Environmental Managers, commonly known as the "10 States Standards". We anticipate having to perform some or all of the following:

- Calls and emails with the New York State Department of Environmental Conservation

(NYSDEC) Tidal Wetlands Group. The purpose of this communication will be to present the detailed scope of what is being proposed and determining if any permitting will be required by the DEC.

- Meetings with NYSDEC at Stony Brook or in the field, as appropriate.
- Preparation of applications and related supporting materials for environmental permits.
- Coordinate obtaining base topographic survey data for use in the development of design plans with the office of Robert B. Holzman, Land Surveyor.
- Schedule field visits with Village staff to coordinate design decisions with current field conditions, using base map generated plans.
- Prepare a 30 percent complete set of design plans for draft review and discussion with Village staff.
- Prepare a 60 percent complete set of design plans and profiles for draft review and discussion with Village staff.
- Prepare a final draft set of design plans, profiles and contract specifications for final review and discussion with Village staff.
- Make submission of plans and application to SCDHS for review and comment.
- Create final plans and contract documents for the Village to solicit public bidding.

Task 2 – Assistance During Bidding

Services in support of Village efforts to obtain competitive bids will include some or all of the following, as requested by the Village:

- Preparation of "Notice to Bidders" to be placed in the required contract advertisement publications by Village. Any printing fees will be paid for by the Village.
- Notification to potential qualified bidders to pick up bid documents.
- Organization of, and attendance at, pre-bid meeting.
- Assistance to answer bidder's technical questions, and evaluation of alternate means, methods, or equipment proposed prior to the bid.
- Communication with potential bidders, including preparation of official questions and answers prior to bid opening.
- Attend bid opening, review of bids for irregularities and unbalanced bids, evaluation of bidder's proposals, verification of references, and preparation of bid tabulation sheet with recommendation for contract award.
- Preparation of contracts for conforming and execution by Counsel. Five bound copies of documents for the contract will be provided.

Task 3 – Construction Phase Services

Under this task engineering services during construction can include construction observation and documentation of construction activities. To complete this task we anticipate having to perform some or all of the following:

- Periodic or resident construction observation services as requested. We will coordinate with Village staff for periodic construction observation, as requested, in order to reduce costs. A written report documenting construction progress and activities will be provided by JRH for each time we are on site.
- Coordination and running of periodic or special field meetings and preparation of minutes, as requested.
- Negotiations with Contractor to improve the rate and quality of work, when necessary.
- Technical field guidance to contractor to properly perform difficult or complicated portions of the work.
- Preparation of punch lists for project completion.
- Assistance to Village during final inspection.
- Preparation of "as-built" record drawings from field sketches provided by the Contractor.

Task 4 – Construction Administration Services

This task will include administration of the construction contract. To complete this task we anticipate having to perform some or all of the following:

- Preparation of partial and final engineering approvals of contractor payment requests.
- Review of shop drawings submitted by Contractors.
- Coordination with Village Staff to arrange final inspection and contract close out.
- Interpretation of plans and specifications in response to contractor questions.
- Communication with contractor, including notification to proceed, evaluation of contractor schedule and progress, documentation of change orders, and notification of contract completion date.
- Negotiation of change orders, (if any).
- Assistance during regulatory inspections (if any).
- Preparation of regulatory certifications (if any).

Task 5 – Additional Services

We are available to assist with other services as you may desire during the permitting, design and construction phases of this project. Some or all of the following subtasks can be provided as requested:

- Preparation of additional letters, reports, figures or renderings, etc. for public communications.
- Attendance or presentations at public meetings, Board meetings, etc.
- Assistance with unforeseen environmental or regulatory issues should they arise, including additional applications, letters or Environmental Assessment Forms.
- Performance of field survey work or measurements, beyond that described in other Items.
- Assistance during meetings and negotiations with legislators to identify additional sources of funding.
- Preparation of applications and supporting materials for project funding.
- Assistance with negotiations with the Town of Huntington, NYSDEC or other regulators on construction access, environmental or regulatory issues should they arise.
- Printing of additional contract document copies, figures or displays.

Schedule:

Task 1 – Design Plans, Specifications and Regulatory Support

30 percent draft plans will be ready for your review and comment within four weeks of completion of the survey fieldwork. 60 percent draft plans and profiles will be ready for your review and comment within two weeks of completion of Village review comments. Final draft design plans, profiles and contract specifications will be ready for your review and comment within two weeks of completion of Village 60 percent review comments. Your comments on these plans will be incorporated and ready for regulatory submission within one week of receipt. Final design plans and specifications incorporating regulatory comments will be ready for bid within one week of receipt of regulatory comments.

Task 2 – Assistance During Bidding

The "Notice to Contractors" will be submitted one business day after your notice to proceed with Bid Phase work. Bid tabulation sheets, evaluation of bidder's qualifications, and the recommendation of award letter will be completed within one week of receipt of any required reference materials from bidders.

Task 3 – Construction Phase Services

Construction phase services will be rendered in accordance with the pace of construction.

Task 4 – Construction Administration Services

Construction Contract Administration services will be rendered in accordance with the pace of construction. Shop drawings will be reviewed promptly and generally within 48 hours.

Task 5 – Additional Services

A mutually agreeable schedule will be negotiated at the time such services are requested.

Cost Proposal:

Task 1 – Design Plans, Specifications and Regulatory Support

Time and Expense basis not to be exceeded without your written authorization.
An initial budget allocation of **$ 81,750** for engineering design services is suggested.
A budget allocation of **$ 45,000** for survey services is suggested. Survey services will be provided by the office of Robert Holzman, Land Surveyor with no additional mark up of costs to the Village.

A total budget allocation of **$ 126,750** is requested.
Effort can vary depending on the SCDHS and/or NYSDEC review responses.

Task 2 – Assistance During Bidding

Time and Expense basis not to be exceeded without your written authorization. An initial budget allocation of **$4,950** is suggested.

Task 3 – Construction Phase Services

Time and Expense basis not to be exceeded without your written authorization. An initial budget allocation of **$29,000** is suggested.

Task 4 – Construction Administration Services

Time and Expense basis not to be exceeded without your written authorization. An initial budget allocation of **$10,500** is suggested.

Task 5 – Additional Services

Hourly rates plus expenses. A mutually agreeable budget or lump sum can be negotiated at the time the scope of any such services is established. A copy of our hourly rate sheet is attached for your consideration.

Tasks may be authorized independent of each other.

Agreement:

A copy of our standard "terms and conditions of service" is enclosed for your consideration. Details of our insurance coverage are described therein.

Thank you for the opportunity to propose on this work. You can authorize the work by signing the authorization below or providing an equivalent board resolution and returning one copy to this office. Please call me if you have any questions.

Very truly yours,
J.R. Holzmacher P.E., LLC

J. Robert Holzmacher, P.E.
Principal

Accepted by: _____

For: _____

Date: _____

JRH:j
Encl.

O:\Archive\BusDevelopment\Proposal\2017\351-400\366 - Village of Northport Steers Pit Sanitary\LP 17-366 2018-01-16.doc

Message

From: Murphy, Kara [Murphy.Kara@epa.gov]
Sent: 5/24/2019 6:18:01 PM
To: Feinmark, Phyllis [Feinmark.Phyllis@epa.gov]
Subject: RE: Northport

Thanks for that! And we'll keep that in mind.

-----Original Message-----
From: Feinmark, Phyllis
Sent: Friday, May 24, 2019 1:25 PM
To: Murphy, Kara <Murphy.Kara@epa.gov>
Subject: RE: Northport

Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)

-----Original Message-----
From: Murphy, Kara
Sent: Friday, May 24, 2019 12:48 PM
To: Feinmark, Phyllis <Feinmark.Phyllis@epa.gov>
Subject: RE: Northport

Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)

-----Original Message-----
From: Feinmark, Phyllis
Sent: Friday, May 24, 2019 8:44 AM
To: Zwany, Deborah (USANYE) <Deborah.Zwany@usdoj.gov>; Murphy, Kara <Murphy.Kara@epa.gov>
Cc: McKenna, Douglas <McKenna.Douglas@epa.gov>; Modigliani, Justine <Modigliani.Justine@epa.gov>; Green, Katherine <Green.Katherine@epa.gov>
Subject: RE: Northport

Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC) Thank you all.

-----Original Message-----
From: Zwany, Deborah (USANYE) <Deborah.Zwany@usdoj.gov>
Sent: Friday, May 24, 2019 7:35 AM
To: Murphy, Kara <Murphy.Kara@epa.gov>
Cc: McKenna, Douglas <McKenna.Douglas@epa.gov>; Modigliani, Justine <Modigliani.Justine@epa.gov>; Green, Katherine <Green.Katherine@epa.gov>; Feinmark, Phyllis <Feinmark.Phyllis@epa.gov>
Subject: RE: Northport

Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)

-----Original Message-----
From: Murphy, Kara <Murphy.Kara@epa.gov>
Sent: Friday, May 24, 2019 7:30 AM
To: Zwany, Deborah (USANYE) <DZwany@usa.doj.gov>
Cc: McKenna, Douglas <McKenna.Douglas@epa.gov>; Modigliani, Justine <Modigliani.Justine@epa.gov>; Green, Katherine <Green.Katherine@epa.gov>; Feinmark, Phyllis <Feinmark.Phyllis@epa.gov>; Murphy, Kara <Murphy.Kara@epa.gov>
Subject: RE: Northport

Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)

-----Original Message-----
From: Zwany, Deborah (USANYE) <Deborah.Zwany@usdoj.gov>
Sent: Friday, May 24, 2019 7:26 AM
To: Murphy, Kara <Murphy.Kara@epa.gov>
Cc: McKenna, Douglas <McKenna.Douglas@epa.gov>; Modigliani, Justine <Modigliani.Justine@epa.gov>; Green, Katherine <Green.Katherine@epa.gov>; Feinmark, Phyllis <Feinmark.Phyllis@epa.gov>
Subject: Re: Northport

Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)

On May 24, 2019, at 7:23 AM, Murphy, Kara <Murphy.Kara@epa.gov<mailto:Murphy.Kara@epa.gov>> wrote:

Hi Deborah! Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)

Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)

Thanks

Kara E. Murphy
Assistant Regional Counsel
U.S. EPA, Region 2
290 Broadway, 16th Floor
New York, NY 10007
(212) 637-3211 (Phone)
(212) 637-3202 (Fax)

Note: This transmission may contain confidential communications, attorney work product, enforcement sensitive, attorney-client and/or other privileged materials. Do not release under FOIA without appropriate review. If this message was sent to you in error, you must delete it and not print, copy re-transmit, disseminate, or otherwise use the information.

<image001.png>

From: Zwany, Deborah (USANYE) <Deborah.Zwany@usdoj.gov<mailto:Deborah.Zwany@usdoj.gov>>
Sent: Thursday, May 23, 2019 1:41 PM
To: McKenna, Douglas <McKenna.Douglas@epa.gov<mailto:McKenna.Douglas@epa.gov>>
Cc: Modigliani, Justine <Modigliani.Justine@epa.gov<mailto:Modigliani.Justine@epa.gov>>; Green, Katherine <Green.Katherine@epa.gov<mailto:Green.Katherine@epa.gov>>; Murphy, Kara <Murphy.Kara@epa.gov<mailto:Murphy.Kara@epa.gov>>
Subject: RE: Northport

Thank you for the warm welcome. Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)

Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)

Thanks.

Deborah

From: McKenna, Douglas <McKenna.Douglas@epa.gov<mailto:McKenna.Douglas@epa.gov>>
Sent: Thursday, May 23, 2019 1:35 PM
To: Zwany, Deborah (USANYE) <DZwany@usa.doj.gov<mailto:DZwany@usa.doj.gov>>
Cc: Modigliani, Justine <Modigliani.Justine@epa.gov<mailto:Modigliani.Justine@epa.gov>>; Green, Katherine <Green.Katherine@epa.gov<mailto:Green.Katherine@epa.gov>>; Murphy, Kara <Murphy.Kara@epa.gov<mailto:Murphy.Kara@epa.gov>>
Subject: RE: Northport

A very warm welcome to the case. Kara is the ORC Attorney, Katherine is the technical lead working for Justine who you know.

Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)

Thanks Doug

From: Zwany, Deborah (USANYE) <Deborah.Zwany@usdoj.gov<mailto:Deborah.Zwany@usdoj.gov>>
Sent: Thursday, May 23, 2019 1:12 PM
To: McKenna, Douglas <McKenna.Douglas@epa.gov<mailto:McKenna.Douglas@epa.gov>>
Subject: Northport

Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)

Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)

Deborah B. Zwany
Senior Litigation Counsel
United States Attorney's Office
Eastern District of New York
271 Cadman Plaza East
Brooklyn, New York 11201
(718) 254-6010

Message

From: Murphy, Kara [Murphy.Kara@epa.gov]
Sent: 5/24/2019 4:02:50 PM
To: Modigliani, Justine [Modigliani.Justine@epa.gov]; Green, Katherine [Green.Katherine@epa.gov]
CC: Feinmark, Phyllis [Feinmark.Phyllis@epa.gov]; McKenna, Douglas [McKenna.Douglas@epa.gov]; Murphy, Kara [Murphy.Kara@epa.gov]
Subject: FW: Northport
Attachments: Northport - Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)
Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)

FYI –

Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)

Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)

Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)

From: Zwany, Deborah (USANYE) <Deborah.Zwany@usdoj.gov>
Sent: Friday, May 24, 2019 8:58 AM
To: karen.dworkin@usdoj.gov; Makepeace, Caroline <Makepeace.Caroline@epa.gov>
Cc: Gallagher, Mark (ENRD) <Mark.Gallagher@usdoj.gov>; Silverman, Matthew (USANYE) <Matthew.Silverman@usdoj.gov>; John.Vagelatos@usdoj.gov; Feinmark, Phyllis <Feinmark.Phyllis@epa.gov>; Murphy, Kara <Murphy.Kara@epa.gov>
Subject: Northport

Hello all,

I will be taking this case over from John Vagelatos. John is transferring to our Criminal Division in a couple of weeks. Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)

Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)

Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC) Have a nice Memorial Day weekend.

Deborah

Deborah B. Zwany
Senior Litigation Counsel
United States Attorney's Office
Eastern District of New York
271 Cadman Plaza East
Brooklyn, New York 11201
(718) 254-6010

On May 23, 2019, at 11:53 AM, Silverman, Matthew (USANYE) <MSilverman@usa.doj.gov> wrote:

Please see below for more context.

Truly,
Matthew Silverman
Assistant U.S. Attorney, EDNY

Begin forwarded message:

From: "Gallagher, Mark (ENRD)" <MGallagher@ENRD.USDOJ.GOV>
Date: May 23, 2019 at 11:46:39 AM EDT
To: "Dworkin, Karen (ENRD)" <KDworkin@ENRD.USDOJ.GOV>, "Beckmann, Diane (USANYE)" <DBeckmann@usa.doj.gov>, "Silverman, Matthew (USANYE)" <MSilverman@usa.doj.gov>
Cc: "Makepeace, Caroline" <Makepeace.Caroline@epa.gov>
Subject: Re: Bookhaven and Northport

Diane and Matt

Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)

(I'm on a short vacation, and not always easily available)

-Mark

On May 23, 2019, at 10:40 AM, Dworkin, Karen (ENRD) <KDworkin@enrd.usdoj.gov> wrote:

Mark – **Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)**

Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)

Thanks Mark.

Message

From: Zwany, Deborah (USANYE) [Deborah.Zwany@usdoj.gov]
Sent: 5/24/2019 11:26:19 AM
To: Murphy, Kara [Murphy.Kara@epa.gov]
CC: McKenna, Douglas [McKenna.Douglas@epa.gov]; Modigliani, Justine [Modigliani.Justine@epa.gov]; Green, Katherine [Green.Katherine@epa.gov]; Feinmark, Phyllis [Feinmark.Phyllis@epa.gov]
Subject: Ex. 7(A)
Attachments: image001.png

Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)

On May 24, 2019, at 7:23 AM, Murphy, Kara <Murphy.Kara@epa.gov<mailto:Murphy.Kara@epa.gov>> wrote:

Hi Deborah! Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)

Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)

Thanks

Kara E. Murphy
Assistant Regional Counsel
U.S. EPA, Region 2
290 Broadway, 16th Floor
New York, NY 10007
(212) 637-3211 (Phone)
(212) 637-3202 (Fax)

Note: This transmission may contain confidential communications, attorney work product, enforcement sensitive, attorney-client and/or other privileged materials. Do not release under FOIA without appropriate review. If this message was sent to you in error, you must delete it and not print, copy re-transmit, disseminate, or otherwise use the information.

<image001.png>

From: Zwany, Deborah (USANYE) <Deborah.Zwany@usdoj.gov<mailto:Deborah.Zwany@usdoj.gov>>
Sent: Thursday, May 23, 2019 1:41 PM
To: McKenna, Douglas <McKenna.Douglas@epa.gov<mailto:McKenna.Douglas@epa.gov>>
Cc: Modigliani, Justine <Modigliani.Justine@epa.gov<mailto:Modigliani.Justine@epa.gov>>; Green, Katherine <Green.Katherine@epa.gov<mailto:Green.Katherine@epa.gov>>; Murphy, Kara <Murphy.Kara@epa.gov<mailto:Murphy.Kara@epa.gov>>
Subject: RE: Ex. 7(A)

Thank you for the warm welcome. Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)

Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)

Thanks.

Deborah

From: McKenna, Douglas <McKenna.Douglas@epa.gov<mailto:McKenna.Douglas@epa.gov>>
Sent: Thursday, May 23, 2019 1:35 PM
To: Zwany, Deborah (USANYE) <DZwany@usa.doj.gov<mailto:DZwany@usa.doj.gov>>
Cc: Modigliani, Justine <Modigliani.Justine@epa.gov<mailto:Modigliani.Justine@epa.gov>>; Green, Katherine <Green.Katherine@epa.gov<mailto:Green.Katherine@epa.gov>>; Murphy, Kara <Murphy.Kara@epa.gov<mailto:Murphy.Kara@epa.gov>>
Subject: RE: Ex. 7(A)

A very warm welcome to the case. Kara is the ORC Attorney, Katherine is the technical lead working for Justine who you know.

Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)

Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)

Thanks Doug

From: Zwany, Deborah (USANYE) <Deborah.Zwany@usdoj.gov<mailto:Deborah.Zwany@usdoj.gov>>
Sent: Thursday, May 23, 2019 1:12 PM
To: McKenna, Douglas <McKenna.Douglas@epa.gov<mailto:McKenna.Douglas@epa.gov>>
Subject: Ex. 7(A)

Hello. You can call me at Ex. 6 - Personal Privacy (PP) Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)

Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)

Deborah B. Zwany
Senior Litigation Counsel
United States Attorney's Office
Eastern District of New York
271 Cadman Plaza East
Brooklyn, New York 11201
(718) 254-6010

Message

From: Murphy, Kara [Murphy.Kara@epa.gov]
Sent: 5/24/2019 11:22:27 AM
To: Zwany, Deborah (USANYE) [Deborah.Zwany@usdoj.gov]; McKenna, Douglas [McKenna.Douglas@epa.gov]
CC: Modigliani, Justine [Modigliani.Justine@epa.gov]; Green, Katherine [Green.Katherine@epa.gov]; Feinmark, Phyllis [Feinmark.Phyllis@epa.gov]; Murphy, Kara [Murphy.Kara@epa.gov]
Subject: RE: Northport

Hi Deborah! This is great news!

Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)

Thanks

Kara E. Murphy
Assistant Regional Counsel
U.S. EPA, Region 2
290 Broadway, 16th Floor
New York, NY 10007
(212) 637-3211 (Phone)
(212) 637-3202 (Fax)

Note: This transmission may contain confidential communications, attorney work product, enforcement sensitive, attorney-client and/or other privileged materials. Do not release under FOIA without appropriate review. If this message was sent to you in error, you must delete it and not print, copy re-transmit, disseminate, or otherwise use the information.

From: Zwany, Deborah (USANYE) <Deborah.Zwany@usdoj.gov>
Sent: Thursday, May 23, 2019 1:41 PM
To: McKenna, Douglas <McKenna.Douglas@epa.gov>
Cc: Modigliani, Justine <Modigliani.Justine@epa.gov>; Green, Katherine <Green.Katherine@epa.gov>; Murphy, Kara <Murphy.Kara@epa.gov>
Subject: RE: Northport

Thank you for the warm welcome. I am looking forward to working with all of you Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)

Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)

Thanks.

Deborah

From: McKenna, Douglas <McKenna.Douglas@epa.gov>
Sent: Thursday, May 23, 2019 1:35 PM
To: Zwany, Deborah (USANYE) <DZwany@usa.doj.gov>

Cc: Modigliani, Justine <Modigliani.Justine@epa.gov>; Green, Katherine <Green.Katherine@epa.gov>; Murphy, Kara <Murphy.Kara@epa.gov>
Subject: RE: Northport

A very warm welcome to the case. Kara is the ORC Attorney, Katherine is the technical lead working for Justine who you know.

Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)

Thanks Doug

From: Zwany, Deborah (USANYE) <Deborah.Zwany@usdoj.gov>
Sent: Thursday, May 23, 2019 1:12 PM
To: McKenna, Douglas <McKenna.Douglas@epa.gov>
Subject: Northport

Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)

Deborah B. Zwany
Senior Litigation Counsel
United States Attorney's Office
Eastern District of New York
271 Cadman Plaza East
Brooklyn, New York 11201
(718) 254-6010

Message

From: Simon, Paul [Simon.Paul@epa.gov]
Sent: 6/7/2019 1:52:46 PM
To: Lopez, Peter [lopez.peter@epa.gov]
CC: Lyon, Christopher [lyon.christopher@epa.gov]; Mugdan, Walter [Mugdan.Walter@epa.gov]; Schaaf, Eric [Schaaf.Eric@epa.gov]; Feinmark, Phyllis [Feinmark.Phyllis@epa.gov]; LaPosta, Dore [LaPosta.Dore@epa.gov]; McKenna, Douglas [McKenna.Douglas@epa.gov]; Anderson, Kate [Anderson.Kate@epa.gov]
Subject: Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)

Good morning, Pete. Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)
Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)
Thanks.

++++++++++++++++

Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)

Pete

Message

From: Simon, Paul [Simon.Paul@epa.gov]
Sent: 6/5/2019 9:04:53 PM
To: Schaaf, Eric [Schaaf.Eric@epa.gov]; Feinmark, Phyllis [Feinmark.Phyllis@epa.gov]
Subject: RE: SEP letter
Attachments: SEP email to Susan_clean.docx; SEP email to Susan_redline.docx

Ex. 5 AC/AWP/DP

From: Schaaf, Eric
Sent: Tuesday, June 4, 2019 3:11 PM
To: Feinmark, Phyllis <Feinmark.Phyllis@epa.gov>; Simon, Paul <Simon.Paul@epa.gov>
Subject: RE: SEP letter

Works for me – Paul?

From: Feinmark, Phyllis
Sent: Tuesday, June 4, 2019 3:05 PM
To: Schaaf, Eric <Schaaf.Eric@epa.gov>; Simon, Paul <Simon.Paul@epa.gov>
Subject: RE: SEP letter

Ex. 5 AC/AWP/DP

From: Schaaf, Eric
Sent: Tuesday, June 4, 2019 2:47 PM
To: Feinmark, Phyllis <Feinmark.Phyllis@epa.gov>; Simon, Paul <Simon.Paul@epa.gov>
Subject: FW: SEP letter

Resending with the markup attached.

From: Schaaf, Eric
Sent: Tuesday, June 4, 2019 2:46 PM
To: Feinmark, Phyllis <Feinmark.Phyllis@epa.gov>; Simon, Paul <Simon.Paul@epa.gov>
Subject: RE: SEP letter

Ex. 5 AC/AWP/DP

From: Feinmark, Phyllis
Sent: Tuesday, June 4, 2019 1:19 PM
To: Simon, Paul <Simon.Paul@epa.gov>
Cc: Schaaf, Eric <Schaaf.Eric@epa.gov>
Subject: SEP letter

I think this is close to what you need. At least it gives you something to work from.

From: Simon, Paul
Sent: Tuesday, June 4, 2019 10:19 AM
To: Feinmark, Phyllis <Feinmark.Phyllis@epa.gov>
Subject: Fwd: SEPs

Sent from my iPhone

Begin forwarded message:

> **From:** "Schaaf, Eric" <Schaaf.Eric@epa.gov>
> **Date:** May 20, 2019 at 12:26:05 PM EDT
> **To:** "Lopez, Peter" <lopez.peter@epa.gov>
> **Cc:** "Simon, Paul" <Simon.Paul@epa.gov>
> **Subject: SEPs**
>
> Pete: here is an updated version of the summary and talking points I sent you on May 1st regarding SEPs. This takes into account information we've learned in the last few weeks.

Ex. 5 AC/DP

Ex. 5 AC/DP

Ex. 5 AC/AWP/DP

Ex. 5 AC/DP

Ex. 5 AC/DP

Message

From: Zwany, Deborah (USANYE) [Deborah.Zwany@usdoj.gov]
Sent: 5/29/2019 1:06:23 PM
To: Modigliani, Justine [Modigliani.Justine@epa.gov]; Feinmark, Phyllis [Feinmark.Phyllis@epa.gov]
CC: McKenna, Douglas [McKenna.Douglas@epa.gov]; Green, Katherine [Green.Katherine@epa.gov]; Murphy, Kara [Murphy.Kara@epa.gov]
Subject: RE: Northport

Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)

Hi Mark,

Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)

Deborah

From: Zwany, Deborah (USANYE)
Sent: Wednesday, May 29, 2019 8:49 AM
To: 'Modigliani, Justine' <Modigliani.Justine@epa.gov>; Feinmark, Phyllis <Feinmark.Phyllis@epa.gov>
Cc: McKenna, Douglas <McKenna.Douglas@epa.gov>; Green, Katherine <Green.Katherine@epa.gov>; Murphy, Kara <Murphy.Kara@epa.gov>
Subject: RE: Northport

Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)

From: Modigliani, Justine <Modigliani.Justine@epa.gov>
Sent: Wednesday, May 29, 2019 8:20 AM
To: Feinmark, Phyllis <Feinmark.Phyllis@epa.gov>
Cc: McKenna, Douglas <McKenna.Douglas@epa.gov>; Zwany, Deborah (USANYE) <DZwany@usa.doj.gov>; Green, Katherine <Green.Katherine@epa.gov>; Murphy, Kara <Murphy.Kara@epa.gov>
Subject: Re: Northport

I know. Thank you.

Sent from my iPhone

On May 29, 2019, at 7:22 AM, Feinmark, Phyllis <Feinmark.Phyllis@epa.gov> wrote:

Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)

Sent from my iPhone

On May 29, 2019, at 7:12 AM, Modigliani, Justine <Modigliani.Justine@epa.gov> wrote:

Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)

Sent from my iPhone

On May 28, 2019, at 4:14 PM, Feinmark, Phyllis <Feinmark.Phyllis@epa.gov> wrote:

Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)

From: McKenna, Douglas
Sent: Tuesday, May 28, 2019 3:55 PM
To: Feinmark, Phyllis <Feinmark.Phyllis@epa.gov>
Cc: Zwany, Deborah (USANYE) <Deborah.Zwany@usdoj.gov>; Modigliani, Justine <Modigliani.Justine@epa.gov>; Green, Katherine <Green.Katherine@epa.gov>; Murphy, Kara <Murphy.Kara@epa.gov>
Subject: Re: Northport

Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)

On May 28, 2019, at 3:41 PM, Feinmark, Phyllis <Feinmark.Phyllis@epa.gov> wrote:

Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)

From: McKenna, Douglas
Sent: Tuesday, May 28, 2019 3:37 PM
To: Zwany, Deborah (USANYE) <Deborah.Zwany@usdoj.gov>
Cc: Modigliani, Justine <Modigliani.Justine@epa.gov>; Green, Katherine <Green.Katherine@epa.gov>; Feinmark, Phyllis <Feinmark.Phyllis@epa.gov>; Murphy, Kara <Murphy.Kara@epa.gov>
Subject: Re: Northport

Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)

Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)

On May 28, 2019, at 3:24 PM, Zwany, Deborah (USANYE) <Deborah.Zwany@usdoj.gov> wrote:

Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)

From: Gallagher, Mark (ENRD) <MGallagher@ENRD.USDOJ.GOV>
Sent: Tuesday, May 28, 2019 3:22 PM
To: Zwany, Deborah (USANYE) <DZwany@usa.doj.gov>
Cc: Silverman, Matthew (USANYE) <MSilverman@usa.doj.gov>
Subject: Re: Northport

Hi Deborah

Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)

M

On May 28, 2019, at 3:10 PM, Zwany, Deborah (USANYE) <Deborah.Zwany@usdoj.gov> wrote:

Karen and Caroline,

Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)

Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)

Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)

Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)

Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)

Thanks again,

Deborah

From: Dworkin, Karen (ENRD) <KDworkin@ENRD.USDOJ.GOV>
Sent: Friday, May 24, 2019 3:04 PM
To: Zwany, Deborah (USANYE) <DZwany@usa.doj.gov>; makepeace.caroline@epa.gov
Cc: Gallagher, Mark (ENRD) <MGallagher@ENRD.USDOJ.GOV>; Silverman, Matthew (USANYE) <MSilverman@usa.doj.gov>; Vagelatos, John (USANYE) <JVagelatos@usa.doj.gov>; Feinmark, Phyllis (Feinmark.Phyllis@epa.gov) <Feinmark.Phyllis@epa.gov>; Murphy, Kara <Murphy.Kara@epa.gov>
Subject: RE: Northport

Thanks Deborah!

From: Zwany, Deborah (USANYE) <Deborah.Zwany@usdoj.gov>
Sent: Friday, May 24, 2019 3:02 PM
To: Dworkin, Karen (ENRD) <KDworkin@ENRD.USDOJ.GOV>; makepeace.caroline@epa.gov
Cc: Gallagher, Mark (ENRD)

<MGallagher@ENRD.USDOJ.GOV>; Silverman, Matthew (USANYE) <MSilverman@usa.doj.gov>; Vagelatos, John (USANYE) <JVagelatos@usa.doj.gov>; Feinmark, Phyllis (Feinmark.Phyllis@epa.gov) <Feinmark.Phyllis@epa.gov>; Murphy, Kara <Murphy.Kara@epa.gov>
Subject: RE: Northport

Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)

From: Zwany, Deborah (USANYE)
Sent: Friday, May 24, 2019 8:58 AM
To: Dworkin, Karen (ENRD) (Karen.Dworkin@usdoj.gov) <Karen.Dworkin@usdoj.gov>; 'makepeace.caroline@epa.gov' <makepeace.caroline@epa.gov>
Cc: Gallagher, Mark (ENRD) <Mark.Gallagher1@usdoj.gov>; Silverman, Matthew (USANYE) <MSilverman@usa.doj.gov>; Vagelatos, John (USANYE) <JVagelatos@usa.doj.gov>; Feinmark, Phyllis (Feinmark.Phyllis@epa.gov) <Feinmark.Phyllis@epa.gov>; 'Murphy, Kara' <Murphy.Kara@epa.gov>
Subject: Northport

Hello all,

Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)

Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC) Have a nice Memorial Day weekend.

Deborah

Deborah B. Zwany
Senior Litigation Counsel
United States Attorney's Office

Eastern District of New York
271 Cadman Plaza East
Brooklyn, New York 11201
(718) 254-6010

On May 23, 2019, at 11:53 AM,
Silverman, Matthew (USANYE)
<MSilverman@usa.doj.gov> wrote:

> Please see below for
> more context.
>
> Truly,
> Matthew Silverman
> Assistant U.S. Attorney,
> EDNY
>
> Begin forwarded
> message:
>
> > **From:** "Gallagher, Mark (ENRD)" <MGallagher@ENRD.USDOJ.GOV>
> > **Date:** May 23, 2019 at 11:46:39 AM EDT
> > **To:** "Dworkin, Karen (ENRD)" <KDworkin@ENRD.USDOJ.GOV>, "Beckm

ann, Diane (USANYE)" <DBeckmann@usa.doj.gov>, "Silverman, Matthew (USANYE)" <MSilverman@usa.doj.gov>
Cc: "Makepeace, Caroline" <Makepeace.Caroline@epa.gov>
Subject: Re: Bookhaven and Northport

Diane and Matt

Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)

Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)

(I'm on a short vacation, and not always easily available)

-Mark

On May 23, 2019, at

10:40 AM, Dworkin, Karen (ENRD) <KDworkin@enrd.usdoj.gov> wrote:

Mark –

Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)

Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)

Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)

Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)

Thanks
Mark.

Message

From: Murphy, Kara [Murphy.Kara@epa.gov]
Sent: 10/19/2018 12:26:23 AM
To: Feinmark, Phyllis [Feinmark.Phyllis@epa.gov]; McKenna, Douglas [McKenna.Douglas@epa.gov]; Modigliani, Justine [Modigliani.Justine@epa.gov]; Mann, Katherine [Mann.Katherine@epa.gov]
CC: Murphy, Kara [Murphy.Kara@epa.gov]
Subject: FW: Northport
Attachments: Northport - Consent Judgment (DRAFT 2018-10-18)(For sharing with Northport).docx

FYI –

Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)

Let's hope we get things next week.

Thanks

From: Vagelatos, John (USANYE) <John.Vagelatos@usdoj.gov>
Sent: Thursday, October 18, 2018 7:24 PM
To: Stuart P. Besen (sbesen@milbermakris.com) <sbesen@milbermakris.com>
Cc: Murphy, Kara <Murphy.Kara@epa.gov>; Silverman, Matthew (USANYE) <Matthew.Silverman@usdoj.gov>
Subject: Northport

SETTLEMENT COMMUNICATION

Stuart,

Apologies for our not speaking directly, but I was ill and I think our schedules were missing each other.

In response to Northport's prior inquiries, the United States will consider:
(1) the sewer expansion substantially completed as long as at least a majority of the 27 residential and commercial properties connect to the sewer expansion (in other words, as long as there as at least 13 connections are completed); and
(2) the rain garden SEP substantially completed as long as construction of 1 or more rain gardens is completed within the time frame for a cost of at least $20,000.
I attach a revised draft Consent Judgment with tracked changes reflecting these points.
The attached Consent Judgment also tracks the outstanding appendices required from Northport. Specifically, Northport needs to produce:

Appendix A – A map and schedule/table of the location of the 17 active outfalls owned by Northport, and
Appendix B – The SEP descriptions.

On April 30, we requested that Northport produce Appendix A, the updated list, by May 14, 2018.
On August 22, we requested that Northport complete the draft Appendix B, reflecting additional requested information, as soon as possible.

Stuart, EPA urgently needs the appendices in order to obtain formal approval of Northport's penalty proposal
Ex. 7(A) and of the overall settlement.
Please produce the appendices by Tuesday, October 23, 2018. If you or Northport require technical assistance to complete Appendix B, please let us know immediately and the EPA can participate in a conference call before Tuesday to answer any questions.

Also, please let us know by next Thursday, October 25, 2018, if the proposed revised language in the Consent Judgment is acceptable, or, please propose alternative language you are requesting.

We would like to obtain all necessary approvals and file the proposed Consent Judgment before the end of the year, but will need to wrap up these items and obtain approvals. We appreciate your assistance.

Thank you,
John

Message

From: Murphy, Kara [Murphy.Kara@epa.gov]
Sent: 3/23/2018 10:22:21 PM
To: Feinmark, Phyllis [Feinmark.Phyllis@epa.gov]; McKenna, Douglas [McKenna.Douglas@epa.gov]
CC: Murphy, Kara [Murphy.Kara@epa.gov]; Modigliani, Justine [Modigliani.Justine@epa.gov]; Mann, Katherine [Mann.Katherine@epa.gov]
Subject: FW: Northport
Attachments: Northport - Consent Judgment (DRAFT 2018-03-23)(For sharing with Northport).docx

FYI

From: Vagelatos, John (USANYE) [mailto:John.Vagelatos@usdoj.gov]
Sent: Friday, March 23, 2018 6:21 PM
To: sbesen@milbermakris.com
Cc: Murphy, Kara <Murphy.Kara@epa.gov>; Mann, Katherine <Mann.Katherine@epa.gov>; Modigliani, Justine <Modigliani.Justine@epa.gov>; Levy, Sandra (USANYE) <Sandra.Levy@usdoj.gov>
Subject: Northport

CONFIDENTIAL SETTLEMENT COMMUNICATION
SUBJECT TO FED. R. EVID. 408

Stuart,
I attach for discussion a draft Consent Judgment resolving the United States' claims against Northport.
This draft is subject to further internal government review and approval.
In addition, you should know that the State of New York will likely need to be added as a party to this settlement, and would be added as a plaintiff. In that event, the State will have to review and approve as well.
Finally, you will note that the penalty and SEP provisions are still to be determined [TBD].
EPA is reviewing Northport's most recent SEP proposal.
Once that review is complete, we will be in a position to advise you of the penalty and SEP credit amounts.

For now, please review and we can discuss the structure of the settlement and the Consent Judgment language.

Thank you and best regards,
John

John Vagelatos
Assistant United States Attorney

United States Attorney's Office
Eastern District of New York
271-A Cadman Plaza East
Brooklyn, New York 11201

Telephone: 718-254-6182
Facsimile: 718-254-7489
Email: John.Vagelatos@USDOJ.gov

Northport Consent Judgment – March 23, 2018 DRAFT
Confidential Communication
For Settlement Discussion With Northport
Pursuant To Fed. R. Evid. 408
Subject To Further Government Review & Approval

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA, Plaintiff, v. VILLLAGE OF NORTHPORT, Defendant.	CIVIL ACTION NO. 18 Civ.

CONSENT JUDGMENT

TABLE OF CONTENTS

I. BACKGROUND 1
II. JURISDICTION AND VENUE 2
III. APPLICABILITY 3
IV. DEFINITIONS 4
V. COMPLIANCE REQUIREMENTS 7
VI. SUPPLEMENTAL ENVIRONMENTAL PROJECT 13
VII. REPORTING REQUIREMENTS 16
VIII. CIVIL PENALTY 20
IX. STIPULATED PENALTIES 22
X. FORCE MAJEURE 26
XI. DISPUTE RESOLUTION 28
XII. INFORMATION COLLECTION AND RETENTION 31
XIII. EFFECT OF SETTLEMENT/RESERVATION OF RIGHTS 34
XIV. COSTS 36
XV. NOTICES 36
XVI. EFFECTIVE DATE 37
XVII. RETENTION OF JURISDICTION 37
XVIII. MODIFICATION 38
XIX. TERMINATION 38
XX. PUBLIC PARTICIPATION 39
XXI. SIGNATORIES/SERVICE 39
XXII. INTEGRATION 40
XXIII. APPENDICES 40
XXIV. FINAL JUDGMENT 41

I. BACKGROUND

WHEREAS, Plaintiff United States of America, on behalf of the United States Environmental Protection Agency ("EPA"), has filed a complaint ("Complaint") concurrently with this Consent Judgment, against Defendant the Village of Northport located in the State of New York ("Northport") alleging, *inter alia*, that Northport violated Sections 301(a) and 402 of the Clean Water Act ("CWA" or "Act"), 33 U.S.C. §§ 1301(a) and 1342, by failing to comply with the New York State Department of Environmental Conservation ("NYSDEC") State Pollutant Discharge Elimination System ("SPDES") General Permit for Stormwater Discharges from Small Municipal Separate Storm Sewer Systems ("MS4"), Permit Identification Number NYR20A303, ("MS4 Permit"), applicable to Northport's MS4 program;

WHEREAS, the Village of Northport is an incorporated village of the Town of Huntington in Suffolk County, New York, and is organized under the laws of New York State. Northport is a "municipality" within the meaning under Section 502(4) of the Act, 33 U.S.C. § 1362(4) and a "person" within the meaning under Section 502(5) of the Act, 33 U.S.C. § 1362(5);

WHEREAS, Northport, located on the North Shore of Long Island, owns and operates Northport's MS4 system which discharges to Northport Harbor, a navigable water of the United States within the meaning of Section 502(7) of the Act, 33 U.S.C. § 1362(7);

WHEREAS, under the Act, Northport is required to operate its MS4 system pursuant to an MS4 program that is designed to prevent the discharge of pollutants to waters of the United States.

WHEREAS, Northport recognizes that it is responsible for the care, maintenance and monitoring of the Outfalls, as defined herein, and represents that to the best of its knowledge, it does not own any other active stormwater outfalls;

WHEREAS, the Complaint against Northport alleges that Northport violated the Act by failing to properly implement its MS4 program;

WHEREAS, Northport admits that it did not fully develop and implement a Storm Water Management Program, and was required to do so by January 8, 2008, as required by the MS4 Permit;

WHEREAS, the Parties recognize, and the Court by entering this Consent Judgment finds, that the Consent Judgment has been negotiated by the Parties in good faith and will avoid litigation among the Parties and that this Consent Judgment is fair, reasonable, and in the public interest;

NOW, THEREFORE, before the taking of any testimony and with the consent of the Parties, IT IS HEREBY ADJUDGED, ORDERED, AND DECREED as follows:

II. JURISDICTION AND VENUE

1. This Court has jurisdiction over the subject matter of this action pursuant to Section 309(b) and (d) of the Act, 33 U.S.C. § 1319(b) and (d), and pursuant to 28 U.S.C. §§ 1331, 1345, and 1355, and over the Parties.

2. Venue lies in this District pursuant to 33 U.S.C. § 1319(b), and 28 U.S.C. §§ 1391(b) and (c) and 1395(a), because Northport is located in this judicial district and the events giving rise to the claims in the Complaint arose in this judicial district.

3. For purposes of this Consent Judgment, or any action or proceeding to enforce this Consent Judgment, Northport consents to the Court's jurisdiction over this Consent Judgment and any such action over Northport, and consents to venue in this judicial district.

4. For purposes of this Consent Judgment, Northport agrees that the Complaint states claims upon which relief may be granted pursuant to Section 309(b) and (d) of the Act, 33 U.S.C. §§ 1319(b) and (d).

III. APPLICABILITY

5. The obligations of this Consent Judgment apply to and are binding upon the United States, and upon Northport and any successors, assigns, or other entities or persons otherwise bound by law.

6. Northport shall provide a copy of this Consent Judgment as well as a summary of applicable requirements of this Consent Judgment to all officers, employees, and agents whose duties might reasonably include compliance with any provision of this Consent Judgment, as well as to any contractor retained to perform work required under this Consent Judgment. Northport shall condition any such contract upon the performance of the work in conformity with the terms of this Consent Judgment.

7. In any action to enforce this Consent Judgment, Northport shall not raise as a defense the failure by any of its officers, directors, employees, agents or contractors to take any actions necessary to comply with the provisions of this Consent Judgment.

IV. DEFINITIONS

8. Terms used in this Consent Judgment that are defined in the Act, 33 U.S.C. §§ 1251 *et seq.*, or the regulations promulgated thereunder shall have the meanings assigned to them

in the Act or such regulations, unless otherwise provided in this Consent Judgment. Whenever the terms set forth below are used in this Consent Judgment, the following definitions shall apply:

a. "**Clean Water Act (CWA)**" or "**Act**" shall mean the Federal Water Pollution Control Act, as amended, 33 U.S.C. §§ 1251 *et seq.*;

b. "**Complaint**" shall mean the complaint filed by the United States in this action;

c. "**Consent Judgment**" shall mean this decree and all appendices attached hereto and incorporated into this Consent Judgment (listed in Section XXIV), and any modifications made hereto pursuant to Section XVIII (Modification);

d. "**Date of Lodging**" shall mean the date on which a notice of lodging of this Consent Judgment is filed with the Clerk of the Court of the United States District Court for the Eastern District of New York;

e. Unless otherwise indicated, the term "**Day**" or "**Days**" as used herein shall mean a calendar day or days. References to "**business days**" shall mean days of the week other than Saturdays, Sundays, holidays, and days containing half-holidays. In computing any period of time under this Consent Judgment, if the last day would fall on a Saturday, Sunday, or federal holiday, the period shall continue until the next business day;

f. "**Dry Weather Inspections**" shall mean, for purposes of this paragraph, a visual observation and recording, by photographs, of the Outfalls to determine whether there is an indication of discharges not entirely composed of

stormwater. Dry Weather Inspections shall be performed at a time when there has been no rainfall or snowmelt in the Village of Northport, New York for the preceding 48 hours according to the National Weather Service;

g. "**Dry Weather Sampling**" shall mean the taking of samples of any discharged liquids from the Outfalls at a time when there has been no rainfall or snowmelt in the Village of Northport, New York for the preceding 48 hours according to the National Weather Service;

h. "**Effective Date**" shall mean that date described in Section XVI (Effective Date);

i. "**EPA**" shall mean the United States Environmental Protection Agency and any of its successor departments or agencies;

j. "**Minimum Control Measures**" shall mean 1. Public Education and Outreach, 2. Public Involvement and Participation, 3. Illicit Discharge Detection and Elimination, 4. Construction Site Stormwater Runoff Control, 5. Post-Construction Stormwater Management, and 6. Pollution Prevention / Good Housekeeping for Municipal Operations, and the various components required under each, as described in the MS4 Permit;

k. "**MS4 Permit**" shall mean the most current version of the NYSDEC SPDES General Permit for Stormwater Discharges from MS4s, as defined by the present general permit number, GP-0-15-003, or, if applicable, the general permit number designated upon the renewal of the present permit;

l. "**Northport**" shall mean the Village of Northport;

m. **"Outfalls"** shall mean the nineteen active stormwater outfalls owned by the Village of Northport and identified on the attached Appendix A;

n. **"Paragraph"** shall mean a portion of this Consent Judgment identified by an Arabic numeral;

o. **"Parties"** shall mean the United States and Northport;

p. "**Plan of Study**" shall mean the Village's illicit discharge detection and elimination ("IDDE") trackdown procedure dated February 27, 2013, which was approved by EPA by letter dated April 30, 2013 (*See* Appendix C);

q. **"Section"** shall mean a portion of the Consent Judgment identified by a roman numeral;

r. "**SPDES**" shall mean State Pollutant Discharge Elimination System, as established by 33 U.S.C. § 1342;

s. **"United States"** shall mean the United States of America, acting on behalf of the EPA;

t. "**Wet Weather Sampling**" shall mean the taking of samples of any discharged liquids from the Outfalls at a time when there has been rainfall or snowmelt in the Village of Northport, New York that produces measurable runoff to the MS4.

V. COMPLIANCE REQUIREMENTS

9. Northport shall fully comply with the terms and conditions of the most current version of the MS4 Permit, including more frequent outfall inspections and sampling should the

requirements in the Permit renewal be more stringent than the inspection and sampling program set forth in Paragraph 10, below.

10. Outfall Inspections and Sampling.

a. Dry Weather Inspections. No later than 15 Days after the Effective Date, or if there is persistent rainfall or snowmelt within that 15 Day period, within one Day after the first 48 hours that there has been no rainfall or snowmelt in the Village of Northport, New York according to the National Weather Service, Northport shall complete a first set of Dry Weather Inspections at the Outfalls and document the results in a report. Thereafter, Northport shall perform a second set of Dry Weather Inspections of the Outfalls within one year after completing the first set of Dry Weather Inspections, and document the results of those Dry Weather Inspections in a report.

b. Dry Weather Sampling. If, during a Dry Weather Inspection of the Outfalls as required by Paragraph 10(a) above, Northport detects a liquid outflow, it shall perform Dry Weather Sampling as soon as practicable but no later than 48 hours after identifying such dry weather flow. Northport shall document the results of any Dry Weather Sampling in a report.

c. Wet Weather Sampling. No later than 15 Days after the Effective Date, or if there is no rainfall within that 15 Day period, within one Day of the first rainfall after the Effective Date, Northport shall have performed a first set of Wet Weather Sampling of the Outfalls and document the results in a report. Thereafter, based on the first set of results of Wet Weather Sampling,

Northport shall perform another set of Wet Weather Sampling at outfalls that require subsequent investigation(s), in accordance with the Plan of Study and/or the trackdown procedures set forth in Paragraph 11, below, and document the results in a report.

11. Trackdown. Upon receipt of any Dry Weather Sampling or Wet Weather Sampling results with a median most probable number ("MPN") value in any series of representative samples in excess of 70 MPN per 100 milliliters for Total Coliforms, Northport shall implement trackdown procedures in accordance with paragraphs 4 to 8 of the Plan of Study (*See* Appendix C) (and associated subparagraphs) for each applicable outfall ("Priority Outfall").

a. Northport shall commence implementation of trackdown procedures as soon as practicable but no later than 15 Days after the Date of Entry, or 15 Days after receipt of Sampling results, whichever is later.

b. Northport shall maintain dated, detailed documentation of all activities performed under the Plan of Study for each Priority Outfall.

c. For each Priority Outfall, upon complete implementation of the trackdown procedures in the Plan of Study, including necessary corrective action(s), Northport shall perform another set of Wet Weather Sampling and document the results in a report.

d. Northport shall continue to implement the trackdown procedures in its Plan of Study for each Priority Outfall until the following is completed and documentation is provided to EPA pursuant to Section IX (Reporting Requirements):

1. Documentation demonstrating that Northport has completed a thorough trackdown investigation in accordance with the Plan of Study, including the elimination of identified illicit discharge(s);
2. Another set of Wet Weather Sampling results that demonstrate the effectiveness of the corrective action(s); and
3. A signed certification statement from Northport's Stormwater Management Officer that all potential sources of illicit discharges to the Priority Outfall have been investigated and eliminated.

e. For each Priority Outfall, upon EPA's confirmation of receipt of the three items in Paragraph 11(d) above, Northport shall thereafter address illicit discharges through implementation of its Illicit Discharge Detection and Elimination program, including trackdown procedures, as required by the MS4 Permit and in accordance with its Approved Storm Water Management Program Plan.

12. Storm Water Management Program Plan. Within 180 Days of the Effective Date, Northport shall submit to EPA for approval an updated revised Storm Water Management Program Plan. The Storm Water Management Program Plan shall include a detailed written explanation of all management practices, activities and other techniques Northport has developed, planned or implemented to address pollutants of concern and reduce the discharge of pollutants from its MS4 to the maximum extent practicable, including Village-specific practices, policies and procedures addressing all six Minimum Control Measures and additional

requirements for MS4s discharging to Pathogen Impaired Watershed Improvement Areas, as defined in the MS4 Permit. In addition to the requirements outlined above:

a. Northport shall, as a component of Minimum Control Measure 3 (Illicit Discharge Detection and Elimination), identify Priority Outfalls, which at a minimum shall include outfalls where Dry Weather Sampling results or Wet Weather Sampling results required subsequent trackdown investigation(s) that are ongoing as of the Date of Entry. Northport shall include provisions in its Storm Water Management Program Plan to conduct Dry Weather Inspections at the Priority Outfalls at a minimum frequency of once per year.

b. Northport shall, as a component of Minimum Control Measure 3 (Illicit Discharge Detection and Elimination), develop a web-based complaint tool that allows members of the public to request information or submit complaints related to potential illicit discharges to the MS4.

c. Northport shall commence implementation of all aspects of the Storm Water Management Program Plan within 30 Days of EPA approval.

d. Northport shall continue to update the Storm Water Management Program Plan in accordance with any applicable deadlines set forth in the most current version of the MS4 Permit.

13. The compliance requirements of this Consent Judgment do not relieve Northport of any compliance obligations required by the Act or its implementing regulations, or by any other federal or state law, regulation, permit, or other requirement.

14. Approval of Deliverables: After review of any plan, report, or other item that is required to be submitted pursuant to this Consent Judgment, EPA shall in writing: (a) approve the submission; (b) approve the submission upon specified conditions; (c) approve part of the submission and disapprove the remainder; or (d) disapprove the submission.

15. If the submission is approved pursuant to Paragraph 14(a), Northport shall take all actions required by the plan, report, or other document, in accordance with the schedules and requirements of the plan, report, or other document, as approved. If the submission is conditionally approved or approved only in part pursuant to Paragraph 14(b) or (c), Northport shall, upon written direction from EPA, take all actions required by the approved plan, report, or other item that EPA determines are technically severable from any disapproved portions, subject to Northport's right to dispute only the specified conditions or the disapproved portions, under Section XI (Dispute Resolution).

16. If the submission is disapproved in whole or in part pursuant to Paragraph 14(c) or (d), Northport shall, within 45 Days or such other time as the Parties agree to in writing, correct all deficiencies and resubmit the plan, report, or other item, or disapproved portion thereof, for approval, in accordance with the preceding Paragraphs. If the resubmission is approved in whole or in part, Northport shall proceed in accordance with the preceding Paragraph 15.

17. Any stipulated penalties applicable to the original submission, as provided in Section IX (Stipulated Penalties), shall accrue during the 45 Day period or other specified period, but shall not be payable unless the resubmission is untimely or is disapproved in whole or in part; provided that, if the original submission was so deficient as to constitute a material breach

of Northport's obligations under this Consent Judgment, the stipulated penalties applicable to the original submission shall be due and payable notwithstanding any subsequent resubmission.

18. If a resubmitted plan, report, or other item, or portion thereof, is disapproved in whole or in part, EPA may again require Northport to correct any deficiencies, in accordance with the preceding Paragraphs, or may itself correct any deficiencies, subject to Northport's right to invoke Dispute Resolution procedures set forth in Section XI (Dispute Resolution) and the right of EPA to seek stipulated penalties as provided in the preceding paragraphs and Section IX (Stipulated Penalties).

19. Permits. Where any compliance under this Section requires Northport to obtain a federal, state, or local permit or approval, Northport shall submit timely and complete applications and take all other actions necessary to obtain all such permits or approvals. Northport may seek relief under the provisions of Section X (Force Majeure) for any delay in the performance of any such obligation resulting from a failure to obtain, or a delay in obtaining, any permit or approval required to fulfill such obligation, if Northport has submitted timely and complete applications and has taken all other actions necessary to obtain all such permits or approvals.

VI. SUPPLEMENTAL ENVIRONMENTAL PROJECT

20. Northport shall implement the supplemental environmental project (SEP) described in Appendix B, involving [TBD].

21. Northport is responsible for the satisfactory completion of the SEP in accordance with the requirements of this Consent Judgment. "Satisfactory completion" means, at a minimum, performing tasks identified in Appendix B, which includes a Phase I Sub-watershed

Assessment, Phase II Development of Conceptual Drainage Improvement, and Phase III Implementation of the SEP. Northport may use contractors or consultants in planning and implementing the SEP.

22. With regard to the SEP, Northport certifies the truth and accuracy of each of the following:

a. that all cost information provided to EPA in connection with EPA's approval of the SEP is complete and accurate, and that Northport, in good faith, estimates that the cost of the SEP is $[TBD].

b. that, as of the date of executing this Consent Judgment, Northport is not required to perform or develop the SEP by any federal, state, or local law or regulation and is not required to perform or develop the SEP by agreement, grant, or as injunctive relief awarded in any other action in any forum;

c. that the SEP is not a project that Northport was planning or intending to construct, perform or implement other than in settlement of the claims resolved in this Consent Judgment;

d. that Northport has not received and will not receive credit for the SEP in any other enforcement action; and

e. that Northport will not receive any reimbursement for any portion of the SEP from any other person or entity;

f. that Northport is not a party to any open federal financial assistance transaction that is funding or could fund the same activities as the SEP described in Paragraph 20 and Appendix B. For purposes of this

certifications, the term "open federal financial assistance transaction" refers to a grant, cooperative agreement, loan, federally-guaranteed loan guarantee, or other mechanism for providing federal financial assistance whose performance period has not yet expired.

23. SEP Completion Report: Within 30 Days after the date set for completion of the SEP, Northport shall submit a SEP Completion Report to the United States, in accordance with Section XV (Notices). The SEP Completion Report shall contain the following information:

a. a detailed description of the SEP as implemented;

b. a description of any problems encountered in completing the SEP and the solutions thereto;

c. an itemized list of all SEP costs expended;

d. certification that the SEP has been fully implemented pursuant to the provisions of this Consent Judgment; and

e. a description of the environmental and public health benefits resulting from implementation of the SEP (with a quantification of the benefits and pollutant reductions, if feasible).

24. EPA may, in its sole discretion, require information in addition to that described in the preceding Paragraph, in order to evaluate Northport's SEP Completion Report.

25. After receiving the SEP Completion Report, the United States shall notify Northport whether or not Northport has satisfactorily completed the SEP. If Northport has not satisfactorily completed the SEP in accordance with this Consent Judgment, stipulated penalties may be assessed as set forth in Section IX (Stipulated Penalties) Consent Judgment.

26. Disputes concerning the satisfactory performance of the SEP and the amount of eligible SEP costs may be resolved under Section XI (Dispute Resolution). No other disputes arising under this Section shall be subject to Dispute Resolution.

27. Each submission required under this Section shall be signed by an official with knowledge of the SEP and shall bear the certification language set forth in Paragraph 35.

28. Public Statements. Any public statement, oral or written, in print, film, or other media, made by Northport making reference to the SEP under this Consent Judgment shall include the following language: "This project was undertaken in connection with the settlement of an enforcement action, *United States v. Village of Northport*, taken on behalf of the U.S. Environmental Protection Agency under the Clean Water Act."

VII. REPORTING REQUIREMENTS

29. Northport shall submit to EPA all of the reports that are required to be generated pursuant to Paragraphs 10 to 12. The obligation that such reports be submitted to EPA shall be in accordance with the following schedule:

(a) Northport shall submit a report of the results of the Dry Weather Inspections required by Paragraph 10(a) within 30 Days after the inspections are performed;

(b) Northport shall submit a report of the results of the Dry Weather Sampling required by Paragraph 10(b) within 30 Days after the Sampling is performed;

(c) Northport shall submit a report of the first set of results of Wet Weather Sampling of the Outfalls required by Paragraph 10(c) within 15 Days of the

Effective Date, or, within 30 Days after the Sampling is performed, whichever is later;

(d) Northport shall submit a report of the results of any subsequent Wet Weather Sampling required by Paragraphs 10(c) and 11(c) within 30 Days after the Sampling is performed.

(e) Northport shall submit documentation required by Paragraphs 11(d)(1-3) within 30 Days after all potential sources of illicit discharges to the Priority Outfalls have been investigated and eliminated.

(f) Northport shall submit to EPA annually, on or before the anniversary of the Effective Date, a copy of the updated revised Storm Water Management Program Plan that incorporates the revisions required by Paragraph 12(d) that were made in the previous 365-Day period.

30. Quarterly Reports. Within 30 Days after the end of each quarter (i.e., by April 30, July 30, October 30, and January 30) after the Effective Date, until termination of this Consent Judgment pursuant to Section XIX (Termination), Northport shall submit in writing to the United States and EPA a quarterly report (Quarterly Report) for the preceding quarter that shall include:

a. A description of the work completed during the preceding three months identified in Section V (Compliance Requirements), including (i) status of any compliance measures, (ii) completion of milestones, (iii) problems encountered or anticipated, together with implemented or proposed solutions, (iv) operation and maintenance, (v) status of permit applications; and (vi) reports to State agencies;

b. The status of efforts to complete the SEP (Section VI) (Supplemental Environmental Project), including a narrative description of activities undertaken, and addressing: (i) permitting, (ii) funding, (iii) approval of plans, (iv) approvals from the Northport Village Treasurer, (v) bids, (vi) contracting, (vii) work performed, (viii) problems encountered or anticipated, together with implemented or proposed solutions, (ix) description of each milestone completed during the relevant quarterly period and the applicable deadlines for such milestones; (x) the status of achievement of each milestone, (xi) a description of any work that was due, but not completed, and (xii) a summary of costs incurred since the previous report;

Commented [A1]: Northport to confirm that this is the correct title.

c. A description of the work planned for the subsequent three-month period, and addressing each of the items listed in subparagraph 30(a);

d. A description of any requirements of this Consent Judgment which were not complied with, the dates of such non-compliance, and an explanation of the violation's likely cause and the remedial steps taken, or to be taken, to prevent or minimize such violation; and

e. If Northport has already submitted a deliverable to the EPA and/or the United States, Northport shall in the Quarterly Report reference that deliverable and its date of submission.

31. The Parties shall meet as needed, on at least a semi-annual basis, to discuss the Quarterly Reports and Northport's ongoing progress towards implementation of the Consent Judgment.

32. If Northport violates, or has reason to believe that it may violate, any requirement of this Consent Judgment, Northport shall notify the United States of such violation and its likely duration, in writing, within ten working Days of the Day Northport first becomes aware of the violation, with an explanation of the violation's likely cause and of the remedial steps taken, or to be taken, to prevent or minimize such violation. If the cause of a violation cannot be fully explained at the time the report is due, Northport shall so state in the report. Northport shall investigate the cause of the violation and shall then submit an amendment to the report, including a full explanation of the cause of the violation, within 30 Days of the Day Northport becomes aware of the cause of the violation. Nothing in this Paragraph or the following Paragraph relieves Northport of its obligation to provide the notice required by Section X (Force Majeure).

33. Whenever any violation of this Consent Judgment or any other event affecting Northport's performance under this Consent Judgment may pose an immediate threat to the public health or welfare or the environment, Northport shall notify EPA orally or by electronic or facsimile transmission as soon as possible, but no later than 24 hours after Northport first knew of the violation or event. This procedure is in addition to the requirements set forth in the preceding Paragraph.

34. All reports shall be submitted to the persons designated in Section XV (Notices).

35. All Quarterly Reports, any other report, notice, protocol, plan, or any other document submitted by Northport under this Section shall be signed by an official of Northport and include the following certification:

> I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry

of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

36. This certification requirement does not apply to emergency or similar notifications where compliance would be impractical.

37. The reporting requirements of this Consent Judgment do not relieve Northport of any reporting obligations required by the Act or its implementing regulations, or by any other federal, state, or local law, regulation, permit, or other requirement.

38. Any information provided pursuant to this Consent Judgment may be used by the United States in any proceeding to enforce the provisions of this Consent Judgment and as otherwise permitted by law.

VIII. CIVIL PENALTY

39. Within thirty (30) Days after the Effective Date, Northport shall pay the sum of $[TBD] as a civil penalty.

40. Northport shall pay the civil penalty due at https://www.pay.gov to the United States Department of Justice ("DOJ") account, in accordance with instructions provided to Northport by the Financial Litigation Unit ("FLU") of the United States Attorney's Office for the Eastern District of New York after the Effective Date (Section XVI). The payment instructions provided by the FLU shall include a Consolidated Debt Collection System ("CDCS") number, which Northport shall use to identify all payments required to be made in accordance with this Consent Judgment. The United States shall provide the payment instructions within ten Days of the Effective Date via e-mail to [NAME], [TITLE] at [Address, Phone Number, Email Address]

Commented [A2]: Northport to identify appropriate contact.

on behalf of Northport. Northport may change the individual to receive payment instructions on its behalf by providing written notice of such change to DOJ and EPA in accordance with Section XV (Notices).

41. At the time of payment, Northport shall send notice that payment has been made: (i) to the EPA Cincinnati Finance Office by e-mail at acctsreceivable.cinwd@epa.gov or via regular mail at EPA Cincinnati Finance Office, 26 Martin Luther King Drive, Cincinnati, Ohio 45268; (ii) to the United States by e-mail or regular mail in accordance with Section XV (Notices); and (iii) to EPA by mail in accordance with Section XV (Notices). Such notice shall reference the CDCS Number, USAO number 2014V01570, and DOJ case number _____.

IX. STIPULATED PENALTIES

42. Northport shall be liable for stipulated penalties to the United States for violations of this Consent Judgment as specified below, unless excused under Section X (Force Majeure). A violation includes failing to perform any obligation required by the terms of this Consent Judgment, including any work plan or schedule approved under this Consent Judgment, according to all applicable requirements of this Consent Judgment and within the specified time schedules established by or approved under this Consent Judgment.

43. Late Payment of Civil Penalty. If Northport fails to pay the civil penalty required to be paid pursuant to Section VIII (Civil Penalty) when due, Northport shall pay a stipulated penalty of $500 per Day for each Day that the payment is late.

44. Compliance Requirements.

a. The following stipulated penalties shall accrue per violation per Day for each violation of the requirements identified in Section V (Compliance Requirements):

Penalty Per Violation Per Day	Period of Noncompliance
$500.00	1st through 30th Day
$1,000.00	31st through 59th Day
$2,000.00	60th Day and beyond

45. Reporting Requirements. The following stipulated penalties shall accrue per violation per Day for each violation of the reporting requirements set forth in Section VII (Reporting Requirements) as well as the SEP Completion Report, as set forth in Paragraph 23:

Penalty Per Violation Per Day	Period of Noncompliance
$300.00	1st through 30th Day
$500.00	31st through 59th Day
$2,000.00	60th Day and beyond

The total amount of stipulated penalties due for a period of noncompliance for providing the SEP Completion Report, as set forth in Paragraph 23, shall not exceed $[TBD].

46. SEP Compliance.

a. If Northport fails to satisfactorily complete the SEP by the deadline set forth in Paragraph 23 (one year from the Effective Date), Northport shall pay stipulated penalties for each day for which it fails to satisfactorily complete the SEP, as follows:

Penalty Per Violation Per Day	Period of Noncompliance
$300.00	1st through 30th day
$500.00	31st through 59th day
$1,000.00	60th day and beyond

b. If Northport fails to implement the SEP in accordance with the provisions of this Consent Judgment, or halts or abandons work on the SEP, Northport shall pay a stipulated penalty in the amount of $[TBD]. The penalty under this sub-paragraph shall accrue as of the date specified for completing the SEP or the date performance ceases, whichever is earlier.

47. Except as otherwise specified in subparagraph 46(b), stipulated penalties under this Section shall begin to accrue on the Day after performance is due or on the Day that a violation occurs, whichever is applicable, and shall continue to accrue until performance is satisfactorily completed or until the violation ceases. Stipulated penalties shall accrue simultaneously for separate violations of this Consent Judgment.

48. Northport shall pay any stipulated penalty within 30 Days of receiving the United States' written demand.

49. The United States may in the unreviewable exercise of its discretion, reduce or waive stipulated penalties otherwise due it under this Consent Judgment.

50. Stipulated penalties shall continue to accrue as provided in this Section during any Dispute Resolution (Section XI), but need not be paid until the following:

a. If the dispute is resolved by agreement of the Parties or by a decision of EPA that is not appealed to the Court, Northport shall pay accrued penalties determined to be owing, together with interest, to the United States within 30 Days of the effective date of the Parties' agreement or the receipt of EPA's decision or order;

b. If the dispute is appealed to the Court and the United States prevails in whole or in part, Northport shall pay all accrued penalties determined by the Court to be owing, together with interest, within 60 Days of receiving the Court's decision or order, except as provided in subparagraph c., below; and

c. If any Party appeals the Court's decision and the United States prevails in whole or in part, Northport shall pay all accrued penalties determined to be owing, together with interest, within 15 Days of receiving the final appellate court decision.

51. Obligations Prior to the Effective Date. Upon the Effective Date (Section XVI), the stipulated penalty provisions of this Consent Judgment shall be retroactively enforceable with regard to any and all violations of Sections V (Compliance Requirements) and VI (Supplemental Environmental Project), and Appendix B, that may have occurred between the Date of Lodging and the Effective Date.

52. Northport shall pay stipulated penalties owing to the United States in the manner set forth and with the confirmation notices required by Paragraph 41, except that the transmittal letter shall state that the payment is for stipulated penalties and shall state for which violation(s) the penalties are being paid.

53. If Northport fails to pay stipulated penalties according to the terms of this Consent Judgment, Northport shall be liable for interest on such penalties, as provided for in 28 U.S.C. § 1961, accruing as of the date payment became due. Nothing in this Section shall be construed to limit the United States from seeking any remedy otherwise provided by law for Northport's failure to pay any stipulated penalties.

54. Non-Exclusivity of Remedy. Subject to the provisions of Section XIII (Effect of Settlement/Reservation of Rights), the stipulated penalties provided for in this Consent Judgment shall be in addition to any other rights, remedies, or sanctions available to the United States for Northport's violation of this Consent Judgment or applicable law. Where a violation of this Consent Judgment is also a violation of the Act, Northport shall be allowed a credit, for any stipulated penalties paid, against any statutory penalty imposed for such violation.

X. FORCE MAJEURE

55. "Force majeure," for purposes of this Consent Judgment, is defined as any event arising from causes beyond the control of Northport, of any entity controlled by Northport, or of Northport's contractors, that delays or prevents the performance of any obligation under this Consent Judgment despite Northport's best efforts to fulfill the obligation. The requirement that Northport exercise "best efforts to fulfill the obligation" includes using best efforts to anticipate any potential force majeure and best efforts to address the effects of any potential force majeure event (a) as it is occurring, and (b) after it has occurred to prevent or minimize any resulting delay to the greatest extent possible. "Force majeure" does not include Northport's financial inability to perform any obligation under this Consent Judgment.

56. If any event occurs or has occurred that may delay the performance of any obligation under this Consent Judgment, whether or not caused by a force majeure event, Northport shall provide notice orally, and by electronic transmission and certified mail to the United States and EPA, in accordance with the notice provisions of Section XV (Notices), within 72 hours of when Northport first knew or should have known that the event might cause a delay. Within seven Days thereafter, Northport shall provide in writing to the United States and EPA an

explanation and description of the reasons for the delay; the anticipated duration of the delay; all actions taken or to be taken to prevent or minimize the delay; a schedule for implementation of any measures to be taken to prevent or mitigate the delay or the effect of the delay; Northport's rationale for attributing such delay to a force majeure event if it intends to assert such a claim; and a statement as to whether, in the opinion of Northport, such event may cause or contribute to an endangerment to public health, welfare or the environment. Northport shall include with any notice all available documentation supporting the claim that the delay was attributable to a force majeure event. Failure to comply with the above requirements shall preclude Northport from asserting any claim of force majeure for that event for the period of time of such failure to comply, and for any additional delay caused by such failure. Northport shall be deemed to know of any circumstance of which Northport, any entity controlled by Northport, or Northport's contractors knew or should have known.

57. If EPA agrees that the delay or anticipated delay or anticipated delay is attributable to a force majeure event, the time for performance of the obligations under this Consent Judgment that are affected by the force majeure event will be extended by EPA for such time as is necessary to complete those obligations. An extension of the time for performance of the obligations affected by the force majeure event shall not, of itself, extend the time for performance of any other obligation. EPA will notify Northport in writing of the length of the extension, if any, for performance of the obligations affected by the force majeure event.

58. If EPA does not agree that the delay or anticipated delay has been or will be caused by a force majeure event, EPA will notify Northport in writing of its decision.

59. If Northport elects to invoke the dispute resolution procedures set forth in Section XI (Dispute Resolution), with regard to a force majeure determination, it shall do so no later than 21 Days after receipt of EPA's written notice. In any such proceeding, Northport shall have the burden of demonstrating by a preponderance of the evidence that the delay or anticipated delay has been or will be caused by a force majeure event, that the duration of the delay or extension sought was or will be warranted under the circumstances, that best efforts were exercised to avoid and mitigate the effects of the delay, and that Northport complied with the requirements of this Section of the Consent Judgment. If Northport carries this burden, the delay at issue shall be deemed not to be a violation by Northport of the affected obligations of this Consent Judgment identified to the EPA and the Court.

XI. DISPUTE RESOLUTION

60. Unless otherwise expressly provided for in this Consent Judgment, the dispute resolution procedures of this Section shall be the exclusive mechanism to resolve disputes arising under or with respect to this Consent Judgment. Northport's failure to seek resolution of a dispute under this Section shall preclude Northport from raising any such issue as a defense to an action by the United States to enforce any obligation of Northport arising under this Consent Judgment.

61. Informal Dispute Resolution. Any dispute subject to Dispute Resolution under this Consent Judgment shall first be the subject of informal negotiations. The dispute shall be considered to have arisen when Northport sends the United States a written Notice of Dispute. Such Notice of Dispute shall state clearly the matter in dispute. The period of informal negotiations shall not exceed 30 Days from the date the dispute arises, unless that period is

modified by written agreement. If the Parties cannot resolve a dispute by informal negotiations, then the position advanced by the United States shall be considered binding unless, within 14 Days after the conclusion of the informal negotiation period, Northport invokes the formal dispute resolution procedures as set forth below.

62. Formal Dispute Resolution. Northport shall invoke formal dispute resolution procedures, within the time period provided in the preceding Paragraph, by serving on the United States a written Statement of Position regarding the matter in dispute. The Statement of Position shall include, but need not be limited to, any factual data, analysis, or opinion supporting Northport's position and any supporting documentation relied upon by Northport.

63. The United States shall serve its Statement of Position upon Northport within 45 Days of receipt of Northport's Statement of Position. The United States' Statement of Position shall include, but need not be limited to, factual data, analysis, or opinion supporting that position and supporting documentation relied upon by the United States. The United States' Statement of Position shall be binding on Northport, unless Northport files a motion for judicial review of the dispute, in accordance with the following Paragraph.

64. Northport may seek judicial review of the dispute by filing with the Court and serving on the United States, in accordance with Section XV (Notices), a motion requesting judicial resolution of the dispute. The motion (or, if the Court requires the filing of a pre-motion letter before the filing of a motion, pre-motion letter) must be filed within 30 Days of receipt of the United States' Statement of Position pursuant to the preceding Paragraph. The motion shall contain a written statement of Northport's position on the matter in dispute, including any supporting factual data, analysis, opinion, or documentation, and shall set forth the relief

requested and any schedule within which the dispute must be resolved for orderly implementation of the Consent Judgment.

65. The United States shall respond to Northport's motion within the time period allowed by the Local Rules of this Court or by Court order modifying such time period. Northport may file a reply memorandum, to the extent permitted by the Local Rules, or by Court order.

66. Standard of Review.

a. Disputes Concerning Matters Accorded Record Review. Except as otherwise provided in this Consent Judgment, in any dispute brought under Paragraph 62 pertaining to the adequacy or appropriateness of Northport's submissions or filings, schedules or any other items requiring approval by EPA under this Consent Judgment; the adequacy of the performance of work undertaken pursuant to this Consent Judgment; and all other disputes that are accorded review on the administrative record under applicable principles of administrative law, Northport shall have the burden of demonstrating, based on the administrative record, that the position of the United States is arbitrary and capricious, or otherwise not in accordance with law.

b. Other Disputes. Except as otherwise provided in this Consent Judgment, in any other dispute brought under Paragraph 62, Northport shall bear the burden of proving that its position complies with this Consent Judgment and better furthers the objectives of this Consent Judgment.

67. The invocation of dispute resolution procedures under this Section shall not, by itself, extend, postpone, or affect in any way any obligation of Northport under this Consent Judgment, unless and until final resolution of the dispute so provides. Stipulated penalties with respect to the disputed matter shall continue to accrue from the first Day of noncompliance, but payment shall be stayed pending resolution of the dispute as provided in Paragraph 50. If Northport does not prevail on the disputed issue, stipulated penalties shall be assessed and paid as provided in Section IX (Stipulated Penalties).

XII. INFORMATION COLLECTION AND RETENTION

68. The United States and its representatives, including attorneys, contractors, and consultants, shall have the right of entry into the MS4 system covered by this Consent Judgment, at all reasonable times, upon presentation of credentials, to:

a. monitor the progress of activities required under this Consent Judgment;

b. verify any data or information submitted to the United States in accordance with the terms of this Consent Judgment;

c. obtain samples and, upon request, splits of any samples taken by Northport or its representatives, contractors or consultants;

d. obtain documentary evidence, including photographs and similar data; and

e. assess Northport's compliance with the Consent Judgment.

69. Upon request, Northport shall provide EPA or its authorized representatives splits of any samples taken by Northport. Upon request, EPA shall provide Northport splits of any samples taken by EPA.

70. Until five years after the termination of this Consent Judgment, Northport shall retain, and shall instruct its contractors and agents to preserve, all non-identical copies of all documents, records, or other information (including documents, records, or other information in electronic form) in its or its contractors' or agents' possession or control, or that come into its or its contractors' or agents' possession or control, and that relate in any manner to Northport's performance of its obligations under this Consent Judgment. This information-retention requirement shall apply regardless of any contrary corporate or institutional policies or procedures. At any time during this information-retention period, upon request by the United States or EPA, Northport shall provide copies of any non-privileged documents, records, or other information required to be maintained under this Paragraph to the United States and EPA.

71. For purposes of this Section and Section IX (Stipulated Penalties), Northport shall be required to preserve at least the following records, logs, and documents:

a. Dry Weather Inspection records, including date, time, weather conditions (including precipitation data for the preceding 48 hours), personnel involved, and photographs;

b. Dry Weather Sampling results, including date, time, weather conditions (including precipitation data for the preceding 48 hours), personnel involved, and laboratory data;

c. Wet Weather Sampling results, including date, time, weather conditions (including precipitation data for the preceding 48 hours), personnel involved, and laboratory data;

d. Detailed documentation of all illicit discharge trackdown activities, including a written description of the investigation(s) performed, date initiated, equipment used, personnel involved, and findings (including photographs, video footage, and results of sampling and field testing, as applicable);

e. Documentation of completed corrective actions made in response to illicit discharge trackdown investigation(s), including photographs, completion reports, invoices, etc.;

f. Computerized or other written maintenance management system files in which MS4 maintenance information is loaded or otherwise recorded including job orders for corrective or preventive maintenance for the MS4;

g. The Storm Water Management Program Plan, including any revisions thereto; and

h. The Storm Water Management Program Plan revision log.

72. At the conclusion of the information-retention period provided in Paragraph 70, Northport shall notify the United States at least 90 Days prior to the destruction of any documents, records, or other information subject to the requirements of Paragraph 70 and, upon request by the United States, Northport shall deliver any such documents, records, or other information to EPA. Northport may assert that certain documents, records, or other information is privileged under the attorney-client privilege or any other privilege recognized by federal law. If Northport asserts such a privilege, it shall provide the following: (a) the title of the document, record, or information; (b) the date of the document, record, or information; (c) the name and title of each author of the document, record, or information; (d) the name and title of each

addressee and recipient; (e) a description of the subject of the document, record, or information; and (f) the privilege asserted by Northport. However, no documents, records, or other information created or generated pursuant to the requirements of this Consent Judgment shall be withheld on grounds of privilege.

73. This Consent Judgment in no way limits or affects any right of entry and inspection, or any right to obtain information, held by the United States or EPA pursuant to applicable laws, regulations, or permits, nor does it limit or affect any duty or obligation of Northport to maintain documents, records, or other information imposed by applicable laws, regulations, or permits.

XIII. EFFECT OF SETTLEMENT/RESERVATIONS OF RIGHTS

74. This Consent Judgment resolves the civil claims of the United States for the violations alleged in the Complaint filed in this action through the Date of Lodging.

75. Reservation of Rights. The United States reserves all legal and equitable remedies available to enforce the provisions of this Consent Judgment, except as expressly stated in the preceding Paragraph 74. This Consent Judgment shall not be construed to limit the rights of the United States to obtain penalties or injunctive relief under the Act or implementing regulations, or under other laws, regulations, or permit conditions except as expressly specified in the preceding Paragraph 74. The United States further reserves all legal and equitable remedies to address any imminent and substantial endangerment to the public health or welfare or the environment arising at, or posed by, Northport, whether related to the violations addressed in this Consent Judgment or otherwise.

76. In any subsequent administrative or judicial proceeding initiated by the United States for injunctive relief, civil penalties, or other appropriate relief relating to Northport's violations, Northport shall not assert, and may not maintain, any defense or claim based upon the principles of waiver, *res judicata*, collateral estoppel, issue preclusion, claim preclusion, claim-splitting, or other defenses, based upon any contention that the claims raised by the United States in the subsequent proceeding were or should have been brought in the instant case, except with respect to claims that have been specifically resolved pursuant to Paragraph 74.

77. This Consent Judgment is not a permit, or a modification of any permit, under any federal, state, or local laws or regulations. Northport is responsible for achieving and maintaining complete compliance with all applicable federal, state, and local laws, regulations, and permits; and Northport's compliance with this Consent Judgment shall be no defense to any action commenced pursuant to any such laws, regulations, or permits, except as set forth herein. The United States does not, by its consent to the entry of this Consent Judgment, warrant or aver in any manner that Northport's compliance with any aspect of this Consent Judgment will result in compliance with any provision of the Act, or with any other provisions of federal, state, or local laws, regulations, or permits.

78. Nothing in the Consent Judgment limits the rights or defenses available under Section 309(e) of the CWA, 33 U.S.C. § 1319(e).

79. This Consent Judgment does not limit or affect the rights of Northport or of the United States against any third parties, not party to this Consent Judgment, nor does it limit the rights of third parties, not party to this Consent Judgment, against Northport, except as otherwise provided by law.

80. This Consent Judgment shall not be construed to create rights in, or grant any cause of action to, any third party not party to this Consent Judgment.

XIV. COSTS

81. The Parties shall bear their own costs of this action, including attorneys' fees, except that the United States shall be entitled to collect the costs (including attorneys' fees) incurred in any action necessary to collect any portion of the civil penalty or any stipulated penalties due but not paid by Northport.

XV. NOTICES

82. Unless otherwise specified in this Consent Judgment, whenever notifications, submissions, or communications are required by this Consent Judgment, they shall be made in writing, include a reference to the case name, caption and docket number of this action, and sent by electronic and certified mail, return receipt requested, as follows:

As to the United States by email: eescasemanagement_enrd@usdoj.gov
Re: DJ #

As to the United States by mail: John Vagelatos
Assistant United States Attorney
United States Attorney's Office
Eastern District of New York
271 Cadman Plaza East, 7th Floor
Brooklyn, NY 11201

Chief, Environmental Enforcement Section
Environmental and Natural Resources Division
U.S. Department of Justice
P.O. Box 7611
Washington, D.C. 20044-7611
Re: DJ #

As to EPA: Phyllis Feinmark, Chief
Water and General Law Branch

Office of Regional Counsel
U.S. Environmental Protection Agency, Region 2
290 Broadway, 16th Floor
New York, NY 10007
feinmark.phyllis@epa.gov

Douglas McKenna, Chief
Water Compliance Branch
U.S. Environmental Protection Agency, Region 2
290 Broadway, 20th Floor
New York, NY 10007
Mckenna.douglas@epa.gov

As to Northport: [To be Added]

Commented [A3]: Northport to identify

83. Any Party may, by written notice to the other Party, change its designated notice recipient or notice address provided above.

84. Notices submitted pursuant to this Section shall be deemed submitted upon mailing, unless otherwise provided in this Consent Judgment or by mutual agreement of the Parties in writing.

85. Documents required to be submitted under the terms of this Consent Judgment may be submitted electronically to all parties required to receive the documents, provided a paper copy is timely submitted to the Chief of the Water Compliance Branch and Chief of the Water and General Law Branch.

XVI. EFFECTIVE DATE

86. The "Effective Date" of this Consent Judgment shall be the date upon which this Consent Judgment is entered by the Court or a motion to enter the Consent Judgment is granted, whichever occurs first, as recorded on the Court's docket; provided, however, that Northport hereby agrees that it shall be bound to perform duties scheduled to occur prior to the Effective

Date. In the event the United States withdraws or withholds consent to this Consent Judgment before entry, or the Court declines to enter the Consent Judgment, then the preceding requirement to perform duties scheduled to occur before the Effective Date shall terminate.

XVII. RETENTION OF JURISDICTION

87. The Court shall retain jurisdiction over this action until termination of this Consent Judgment, for the purposes of resolving disputes arising under this Consent Judgment, or entering orders modifying this Consent Judgment, pursuant to Sections XI (Dispute Resolution) and XVIII (Modification) of this Consent Judgment, or effectuating or enforcing compliance with the terms of this Consent Judgment.

XVIII. MODIFICATION

88. The terms of this Consent Judgment, including its appendices, may be modified only by a subsequent written agreement signed by all the Parties. Where the modification constitutes a material change to this Consent Judgment, it shall be effective only upon approval by the Court.

89. Any disputes concerning modification of this Consent Judgment shall be resolved pursuant to Section XI (Dispute Resolution), provided, however, that, instead of the burden of proof provided by Paragraph 66, the Party seeking the modification bears the burden of demonstrating that it is entitled to the requested modification in accordance with Federal Rule of Civil Procedure 60(b).

XIX. TERMINATION

90. After Northport has: (i) completed all of the requirements set forth in Section __ (Compliance Requirements), Section VI (Supplemental Environmental Projects), Section VII

(Reporting Requirements), Appendices B and C, and all other requirements of this Consent Judgment to the satisfaction of the United States; and (ii) has paid the civil penalty and any accrued stipulated penalties as required by this Consent Judgment, Northport may serve upon the United States a Request for Termination, stating that Northport has satisfied those requirements, together with all necessary supporting documentation.

91. Following receipt by the United States of Northport's Request for Termination, the Parties shall confer informally concerning the Request and any disagreement that the Parties may have as to whether Northport has satisfactorily complied with the requirements for termination of this Consent Judgment. If the United States agrees that this Consent Judgment may be terminated, the Parties shall submit, for the Court's approval, a joint stipulation terminating the Consent Judgment.

92. If the United States does not agree that the Consent Judgment may be terminated, Northport may invoke Dispute Resolution under Section XI (Dispute Resolution) of this Consent Judgment. However, Northport shall not seek Dispute Resolution under Paragraph 62 (Formal Dispute Resolution) of any dispute regarding termination until 90 Days after service of its Request for Termination.

XX. PUBLIC PARTICIPATION

93. This Consent Judgment shall be lodged with the Court for a period of not less than 30 Days for public notice and comment in accordance with 28 C.F.R. § 50.7. The United States reserves the right to withdraw or withhold its consent to the entry of this Consent Judgment if the comments regarding the Consent Judgment disclose facts or considerations indicating that the Consent Judgment is inappropriate, improper, or inadequate. Northport

consents to entry of this Consent Judgment without further notice and agrees not to withdraw from or oppose entry of this Consent Judgment by the Court or to challenge any provision of this Consent Judgment, unless the United States has notified Northport in writing that it no longer supports entry of this Consent Judgment.

XXI. SIGNATORIES AND SERVICE

94. Each undersigned representative of Northport, and the Assistant Attorney General for the Environment and Natural Resources Division of the Department of Justice certifies that he or she is fully authorized to enter into the terms and conditions of this Consent Judgment and to execute and legally bind the Party he or she represents to this Consent Judgment.

95. This Consent Judgment may be signed in counterparts, and its validity shall not be challenged on that basis. Northport agrees to accept service of process by mail with respect to all matters arising under or relating to this Consent Judgment and to waive the formal service requirements set forth in Rules 4 and 5 of the Federal Rules of Civil Procedure and any applicable Local Rules of this Court including, but not limited to, service of a summons.

XXII. INTEGRATION

96. This Consent Judgment constitutes the final, complete, and exclusive agreement and understanding among the Parties with respect to the settlement embodied in this Consent Judgment and supersedes all prior agreements and understandings, whether oral or written, concerning the settlement embodied herein. Other than deliverables that are to be subsequently submitted and approved pursuant to this Consent Judgment, no other document, nor any representation, inducement, agreement, understanding, or promise, constitutes any part of this

Consent Judgment or the settlement it represents, nor shall it be used in construing the terms of this Consent Judgment.

XXIII. APPENDICES

97. The following appendices are attached to and part of this Consent Judgment:

98. "Appendix A" is the map and schedule of location of seventeen active Outfalls owned by the Northport.

99. "Appendix B" is the description of the SEP.

100. "Appendix C" is the Plan of Study.

XXIV. FINAL JUDGMENT

101. Upon approval and entry of this Consent Judgment by the Court, this Consent Judgment shall constitute a final judgment of the Court as to the United States and Northport.

* * * * * * * * * *

DATED and ENTERED this ____ Day of _____, 2018:

_____
[NAME]
UNITED STATES DISTRICT JUDGE

The Parties, by their undersigned representatives, enter into this Consent Judgment in the matter of *United States v. Village of Northport*, Civil No. _____.

FOR THE PLAINTIFF UNITED STATES OF AMERICA:

Washington, D.C.
_____, 2018

_____
JEFFREY H. WOOD
Acting Assistant Attorney General
Environmental and Natural Resources Division
U.S. Department of Justice

Brooklyn, New York
_____, 2018

BRIDGET M. ROHDE
Acting United States Attorney for the
Eastern District of New York

By: _____
JOHN VAGELATOS
Assistant United States Attorney
United States Attorney's Office
Eastern District of New York
271 Cadman Plaza East
Brooklyn, NY 11201

Attorneys for the United States of America

FOR THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY:

Dated: New York, New York
_____ __, 2018

_____
ERIC SCHAAF
Regional Counsel
U.S. Environmental Protection Agency, Region 2
290 Broadway
New York, NY 10007

OF COUNSEL:

KARA E. MURPHY
Assistant Regional Counsel
Water and General Law Branch
U.S. Environmental Protection Agency, Region 2
290 Broadway
New York, NY 10007

FOR THE DEFENDANT VILLAGE OF NORTHPORT:

Dated: Northport, New York
_____, 2018

_____
GEORGE DOLL
Mayor, Commissioner of Public Works and Highways

Dated: Northport, New York
_____, 2018

_____
STEWART BESEN
Village Attorney

Message

From: Murphy, Kara [Murphy.Kara@epa.gov]
Sent: 6/22/2018 6:19:15 PM
To: Feinmark, Phyllis [Feinmark.Phyllis@epa.gov]
CC: Murphy, Kara [Murphy.Kara@epa.gov]
Subject: RE: Northport Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)

Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)

From: Murphy, Kara
Sent: Friday, June 22, 2018 2:06 PM
To: Feinmark, Phyllis <Feinmark.Phyllis@epa.gov>
Cc: Murphy, Kara <Murphy.Kara@epa.gov>
Subject: RE: Northport Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)

Thanks Phyllis. **Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)**

Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)

From: Feinmark, Phyllis
Sent: Friday, June 22, 2018 1:40 PM
To: Murphy, Kara <Murphy.Kara@epa.gov>
Subject: FW: Northport Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)

Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)

From: Mann, Katherine
Sent: Monday, June 18, 2018 10:18 AM
To: Murphy, Kara <Murphy.Kara@epa.gov>
Cc: Feinmark, Phyllis <Feinmark.Phyllis@epa.gov>; Modigliani, Justine <Modigliani.Justine@epa.gov>
Subject: Northport Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)

Hi Kara,

Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)

Katherine

Katherine Mann
Water Compliance Branch
Division of Enforcement and Compliance Assistance
US EPA Region 2
290 Broadway, 20th Floor
New York, NY 10007
(212) 637-4226

Message

From: Murphy, Kara [Murphy.Kara@epa.gov]
Sent: 9/15/2017 7:59:23 PM
To: John.Vagelatos@usdoj.gov; Levy, Sandra (USANYE) [Sandra.Levy@usdoj.gov]
CC: Feinmark, Phyllis [Feinmark.Phyllis@epa.gov]; Modigliani, Justine [Modigliani.Justine@epa.gov]; Mann, Katherine [Mann.Katherine@epa.gov]; Murphy, Kara [Murphy.Kara@epa.gov]
Subject: Northport
Attachments: Northport

Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)

Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)

Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)

Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)

Thanks and have a great weekend!

Kara E. Murphy
Assistant Regional Counsel
U.S. EPA, Region 2
290 Broadway, 16th Floor
New York, NY 10007
(212) 637-3211 (Phone)
(212) 637-3202 (Fax)

Note: This transmission may contain confidential communications, attorney work product, enforcement sensitive, attorney-client and/or other privileged materials. Do not release under FOIA without appropriate review. If this message was sent to you in error, you must delete it and not print, copy re-transmit, disseminate, or otherwise use the information.

Message

From: Murphy, Kara [Murphy.Kara@epa.gov]
Sent: 1/19/2018 9:20:43 PM
To: Feinmark, Phyllis [Feinmark.Phyllis@epa.gov]
CC: Murphy, Kara [Murphy.Kara@epa.gov]
Subject: FW: Northport CD
Attachments: Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)

FYI

From: Murphy, Kara
Sent: Friday, January 19, 2018 4:11 PM
To: John.Vagelatos@usdoj.gov
Cc: Mann, Katherine <Mann.Katherine@epa.gov>; Modigliani, Justine <Modigliani.Justine@epa.gov>; Murphy, Kara <Murphy.Kara@epa.gov>
Subject: Northport CD

Hi John –

Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)

Take care, Kara

Kara E. Murphy
Assistant Regional Counsel
U.S. EPA, Region 2
290 Broadway, 16th Floor
New York, NY 10007
(212) 637-3211 (Phone)
(212) 637-3202 (Fax)

Note: This transmission may contain confidential communications, attorney work product, enforcement sensitive, attorney-client and/or other privileged materials. Do not release under FOIA without appropriate review. If this message was sent to you in error, you must delete it and not print, copy re-transmit, disseminate, or otherwise use the information.

Message

From: Murphy, Kara [Murphy.Kara@epa.gov]
Sent: 9/8/2017 3:31:47 PM
To: Feinmark, Phyllis [Feinmark.Phyllis@epa.gov]
CC: Murphy, Kara [Murphy.Kara@epa.gov]
Subject: FW: Northport - Consent Judgment (DRAFT 2017-09-07)(for EPA discussion reflecting SL comments).docx
Attachments: Northport - Consent Judgment (DRAFT 2017-09-07)(for EPA discussion reflecting SL comments).docx

Hi Phyllis –

Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)

Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC) Thanks!

From: Vagelatos, John (USANYE) [mailto:John.Vagelatos@usdoj.gov]
Sent: Thursday, September 07, 2017 4:58 PM
To: Murphy, Kara <Murphy.Kara@epa.gov>
Cc: Modigliani, Justine <Modigliani.Justine@epa.gov>; Mann, Katherine <Mann.Katherine@epa.gov>
Subject: Northport - Consent Judgment (DRAFT 2017-09-07)(for EPA discussion reflecting SL comments).docx

Kara,
I attached Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)

Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)

Best,
John

Message

From: Murphy, Kara [Murphy.Kara@epa.gov]
Sent: 6/12/2018 9:32:54 PM
To: Mann, Katherine [Mann.Katherine@epa.gov]
CC: McKenna, Douglas [McKenna.Douglas@epa.gov]; Modigliani, Justine [Modigliani.Justine@epa.gov]; Feinmark, Phyllis [Feinmark.Phyllis@epa.gov]; Murphy, Kara [Murphy.Kara@epa.gov]
Subject: Northport - P Ex. 5 Attorney Client (AC)
Attachments: Ex. 5 Attorney Client (AC)

Hi Katherine –

Ex. 5 Attorney Client (AC)

Thanks, Kara

Kara E. Murphy
Assistant Regional Counsel
U.S. EPA, Region 2
290 Broadway, 16th Floor
New York, NY 10007
(212) 637-3211 (Phone)
(212) 637-3202 (Fax)

Note: This transmission may contain confidential communications, attorney work product, enforcement sensitive, attorney-client and/or other privileged materials. Do not release under FOIA without appropriate review. If this message was sent to you in error, you must delete it and not print, copy re-transmit, disseminate, or otherwise use the information.

Message

From: Murphy, Kara [Murphy.Kara@epa.gov]
Sent: 8/23/2018 4:03:46 PM
To: McKenna, Douglas [McKenna.Douglas@epa.gov]
CC: Feinmark, Phyllis [Feinmark.Phyllis@epa.gov]; Modigliani, Justine [Modigliani.Justine@epa.gov]; Mann, Katherine [Mann.Katherine@epa.gov]; Murphy, Kara [Murphy.Kara@epa.gov]
Subject: RE: Northport

Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)

Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC) Thanks

From: McKenna, Douglas
Sent: Thursday, August 23, 2018 11:27 AM
To: Murphy, Kara <Murphy.Kara@epa.gov>
Cc: Feinmark, Phyllis <Feinmark.Phyllis@epa.gov>; Modigliani, Justine <Modigliani.Justine@epa.gov>; Mann, Katherine <Mann.Katherine@epa.gov>
Subject: RE: Northport

Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)

From: Murphy, Kara
Sent: Thursday, August 23, 2018 11:22 AM
To: McKenna, Douglas <McKenna.Douglas@epa.gov>
Cc: Feinmark, Phyllis <Feinmark.Phyllis@epa.gov>; Modigliani, Justine <Modigliani.Justine@epa.gov>; Mann, Katherine <Mann.Katherine@epa.gov>; Murphy, Kara <Murphy.Kara@epa.gov>
Subject: RE: Northport

Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)

From: McKenna, Douglas
Sent: Wednesday, August 22, 2018 7:26 PM
To: Murphy, Kara <Murphy.Kara@epa.gov>
Cc: Feinmark, Phyllis <Feinmark.Phyllis@epa.gov>; Modigliani, Justine <Modigliani.Justine@epa.gov>; Mann, Katherine <Mann.Katherine@epa.gov>
Subject: Re: Northport

Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)

On Aug 22, 2018, at 7:17 PM, Murphy, Kara <Murphy.Kara@epa.gov> wrote:

Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)

Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)

Thanks!

Message

From: McKenna, Douglas [McKenna.Douglas@epa.gov]
Sent: 3/22/2018 10:38:07 PM
To: Murphy, Kara [Murphy.Kara@epa.gov]
CC: Feinmark, Phyllis [Feinmark.Phyllis@epa.gov]; Modigliani, Justine [Modigliani.Justine@epa.gov]; Mann, Katherine [Mann.Katherine@epa.gov]
Subject: Re: Northport

Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)

Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC) I'm out tomorrow and pretty booked on Monday. So Tuesday at the earliest.

Sent from my iPhone

On Mar 22, 2018, at 5:51 PM, Murphy, Kara <Murphy.Kara@epa.gov> wrote:

> FYI – Let me know when you are available for a call with John and Sandra. Tomorrow? Monday? Thanks
>
> **From:** Vagelatos, John (USANYE) [mailto:John.Vagelatos@usdoj.gov]
> **Sent:** Thursday, March 22, 2018 4:39 PM
> **To:** Murphy, Kara <Murphy.Kara@epa.gov>
> **Cc:** Levy, Sandra (USANYE) <Sandra.Levy@usdoj.gov>
> **Subject:** Northport
>
> Hi Kara,
> I left you a voicemail, but wanted to send you an email in case we don't manage to speak today. Two items:
>
> Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)
>
> Thank you,
> John

John Vagelatos
Assistant United States Attorney

United States Attorney's Office
Eastern District of New York
271-A Cadman Plaza East
Brooklyn, New York 11201

Telephone: 718-254-6182
Facsimile: 718-254-7489

Email: John.Vagelatos@USDOJ.gov

Message

From: Murphy, Kara [Murphy.Kara@epa.gov]
Sent: 10/18/2018 5:07:18 PM
To: Feinmark, Phyllis [Feinmark.Phyllis@epa.gov]
CC: Murphy, Kara [Murphy.Kara@epa.gov]
Subject: RE: Update

I know. I'll have more info later today. I'll email you or call you right away.

From: Feinmark, Phyllis
Sent: Thursday, October 18, 2018 12:59 PM
To: Murphy, Kara <Murphy.Kara@epa.gov>
Subject: RE: Update

Ex. 5 AC/DP

From: Murphy, Kara
Sent: Thursday, October 18, 2018 12:56 PM
To: Feinmark, Phyllis <Feinmark.Phyllis@epa.gov>
Cc: Murphy, Kara <Murphy.Kara@epa.gov>
Subject: FW: Update

Ex. 5 AC/DP

From: Vagelatos, John (USANYE) <John.Vagelatos@usdoj.gov>
Sent: Thursday, October 18, 2018 12:11 PM
To: Murphy, Kara <Murphy.Kara@epa.gov>
Subject: RE: Update

Ex. 5 AC/DP

From: Murphy, Kara <Murphy.Kara@epa.gov>
Sent: Thursday, October 18, 2018 12:06 PM
To: Vagelatos, John (USANYE) <JVagelatos@usa.doj.gov>
Cc: Murphy, Kara <Murphy.Kara@epa.gov>
Subject: RE: Update

Ex. 5 AC/DP

From: Vagelatos, John (USANYE) <John.Vagelatos@usdoj.gov>
Sent: Thursday, October 18, 2018 11:53 AM
To: Murphy, Kara <Murphy.Kara@epa.gov>

Cc: Silverman, Matthew (USANYE) <Matthew.Silverman@usdoj.gov>
Subject: Update

Hey Kara,
I got your vm.
I don't have anything further from Stuart yet.
I am tied up until around 5, but will email you the revised Consent Judgment language (in response to Stuart's inquiry) later today and will follow up with Stuart as well.
Best,
John

John Vagelatos
Assistant United States Attorney

United States Attorney's Office
Eastern District of New York
271-A Cadman Plaza East
Brooklyn, New York 11201

Telephone: 718-254-6182
Facsimile: 718-254-7489
Email: John.Vagelatos@USDOJ.gov

Message

From: Murphy, Kara [Murphy.Kara@epa.gov]
Sent: 1/18/2018 8:38:19 PM
To: Feinmark, Phyllis [Feinmark.Phyllis@epa.gov]
CC: Murphy, Kara [Murphy.Kara@epa.gov]
Subject: FW: SEP Update - Spoke to Caroline Makepeace
Attachments: Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC) 1-

FYI – Karen Dworkin.

From: Murphy, Kara
Sent: Thursday, January 18, 2018 2:41 PM
To: Mann, Katherine <Mann.Katherine@epa.gov>; Modigliani, Justine <Modigliani.Justine@epa.gov>
Cc: Murphy, Kara <Murphy.Kara@epa.gov>
Subject: SEP Update - Spoke to Caroline Makepeace

Hi Ladies –

Ex. 5 - Deliberative Process (DP) & Attorney-Client (AC)

Thanks!

Message

From: Murphy, Kara [Murphy.Kara@epa.gov]
Sent: 5/1/2018 10:53:56 PM
To: Feinmark, Phyllis [Feinmark.Phyllis@epa.gov]
CC: Murphy, Kara [Murphy.Kara@epa.gov]
Subject: FW: Northport
Attachments: Northport - Consent Judgment (DRAFT 2018-04-30)(For sharing with Northport).docx

FYI

From: Vagelatos, John (USANYE) [mailto:John.Vagelatos@usdoj.gov]
Sent: Monday, April 30, 2018 6:13 PM
To: Stuart P. Besen (sbesen@milbermakris.com) <sbesen@milbermakris.com>
Cc: Murphy, Kara <Murphy.Kara@epa.gov>; Modigliani, Justine <Modigliani.Justine@epa.gov>; Mann, Katherine <Mann.Katherine@epa.gov>; Levy, Sandra (USANYE) <Sandra.Levy@usdoj.gov>
Subject: Northport

SETTLEMENT COMMUNICATION
SUBJECT TO FED. R. CIV. P. 408

Stuart,

I hope you are well. Thank you for Northport's April 23, 2018 comments on the draft Consent Judgment ("CJ").

I attach a revised version of the draft CJ which annotates Northport's comments, and includes our proposed revisions, responses and placeholders for further discussion.

Significantly, please note that on March 27 and March 28, 2018, the EPA sent two emails requesting information on the proposed SEPs. We cannot complete our SEP credit and penalty analysis without this information.

Specifically, EPA requires the following information in order to finalize its determinations of SEP credit:
I. Rain Garden SEP
1) Please confirm that there have been no changes to the SEP description and costs provided in the 2/2/17 Northport letter;
a) If changes have been made, please provide updates.
2) Please provide a status update on the rain garden SEP and the SEP completion date.
II. Sewer Expansion Project SEP
1) Please identify the portion of the Bluff's Point costs provided on 3/27/18 that Northport is paying for directly (as opposed to by receiving, or contingent upon receiving, grant money or any third-party funding); and
2) Please provide the SEP completion date for Bluff's Point.
Please provide the requested information by May 14, 2018. ***If we do not receive the information by that date, we will not be able to provide Northport with credit for these projects.***

Please let us know when it would be convenient to walk through the CJ and discuss the open issues.
If we receive the SEP information quickly, we should also be able to tell Northport what credit it can receive and the penalty amount.

Best regards,
John

John Vagelatos
Assistant United States Attorney

United States Attorney's Office
Eastern District of New York
271-A Cadman Plaza East
Brooklyn, New York 11201

Telephone: 718-254-6182
Facsimile: 718-254-7489
Email: John.Vagelatos@USDOJ.gov

Northport Consent Judgment –
DOJ/EPA responses to Northport comments on March 23, 2018 DRAFT
Confidential Communication
For Settlement Discussion With Northport
Pursuant To Fed. R. Evid. 408
Subject To Further Government Review & Approval

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA, Plaintiff, v. VILLLAGE OF NORTHPORT, Defendant.	CIVIL ACTION NO. 18 Civ.

CONSENT JUDGMENT

TABLE OF CONTENTS

I. BACKGROUND 1
II. JURISDICTION AND VENUE 2
III. APPLICABILITY 3
IV. DEFINITIONS 4
V. COMPLIANCE REQUIREMENTS 7
VI. SUPPLEMENTAL ENVIRONMENTAL PROJECT 13
VII. REPORTING REQUIREMENTS 16
VIII. CIVIL PENALTY 20
IX. STIPULATED PENALTIES 22
X. FORCE MAJEURE 26
XI. DISPUTE RESOLUTION 28
XII. INFORMATION COLLECTION AND RETENTION 31
XIII. EFFECT OF SETTLEMENT/RESERVATION OF RIGHTS 34
XIV. COSTS 36
XV. NOTICES 36
XVI. EFFECTIVE DATE 37
XVII. RETENTION OF JURISDICTION 37
XVIII. MODIFICATION 38
XIX. TERMINATION 38
XX. PUBLIC PARTICIPATION 39
XXI. SIGNATORIES/SERVICE 39
XXII. INTEGRATION 40
XXIII. APPENDICES 40
XXIV. FINAL JUDGMENT 41

I. BACKGROUND

WHEREAS, Plaintiff United States of America, on behalf of the United States Environmental Protection Agency ("EPA"), has filed a complaint ("Complaint") concurrently with this Consent Judgment, against Defendant the Village of Northport located in the State of New York ("Northport") alleging, *inter alia*, that Northport violated Sections 301(a) and 402 of the Clean Water Act ("CWA" or "Act"), 33 U.S.C. §§ 1301(a) and 1342, by failing to comply with the New York State Department of Environmental Conservation ("NYSDEC") State Pollutant Discharge Elimination System ("SPDES") General Permit for Stormwater Discharges from Small Municipal Separate Storm Sewer Systems ("MS4"), Permit Identification Number NYR20A303, ("MS4 Permit"), applicable to Northport's MS4 program;

WHEREAS, the Village of Northport is an incorporated village of the Town of Huntington in Suffolk County, New York, and is organized under the laws of New York State. Northport is a "municipality" within the meaning under Section 502(4) of the Act, 33 U.S.C. § 1362(4) and a "person" within the meaning under Section 502(5) of the Act, 33 U.S.C. § 1362(5);

WHEREAS, Northport, located on the North Shore of Long Island, owns and operates Northport's MS4 system which discharges to Northport Harbor, a navigable water of the United States within the meaning of Section 502(7) of the Act, 33 U.S.C. § 1362(7);

WHEREAS, under the Act, Northport is required to operate its MS4 system pursuant to an MS4 program that is designed to prevent the discharge of pollutants to waters of the United States;

WHEREAS, Northport recognizes that it is responsible for the care, maintenance and monitoring of the Outfalls, as defined herein, and represents that to the best of its knowledge, it does not own any other active stormwater outfalls;

WHEREAS, the Complaint against Northport alleges that Northport violated the Act by failing to properly implement its MS4 program;

WHEREAS, Northport admits that it did not fully develop and implement a Storm Water Management Program, and was required to do so by January 8, 2008, as required by the MS4 Permit;

WHEREAS, Northport has fully cooperated with the EPA ~~and is currently in compliance with the Storm Water Management Program and its MS4 Permit;~~

Commented [A1]: Northport is not currently in compliance with the SWMP and its MS4 Permit and won't be before the CJ is entered as it has to continue to meet compliance deadlines in the CD. Also, EPA has not done a complete evaluation of Northport's MS4 program, as it doesn't have the information necessary to make that determination.

WHEREAS, ~~in entering into this Consent Judgment, the EPA recognizes the vast improvements~~ Northport has made improvements in its State Pollutant Discharges Elimination System ("SPDES") program, ~~and the~~ including upgrades to its sewer treatment plant;

WHEREAS, the Parties recognize, and the Court by entering this Consent Judgment finds, that the Consent Judgment has been negotiated by the Parties in good faith and will avoid litigation among the Parties and that this Consent Judgment is fair, reasonable, and in the public interest;

NOW, THEREFORE, before the taking of any testimony and with the consent of the Parties, IT IS HEREBY ADJUDGED, ORDERED, AND DECREED as follows:

II. JURISDICTION AND VENUE

1. This Court has jurisdiction over the subject matter of this action pursuant to Section 309(b) and (d) of the Act, 33 U.S.C. § 1319(b) and (d), and pursuant to 28 U.S.C. §§ 1331, 1345, and 1355, and over the Parties.

2. Venue lies in this District pursuant to 33 U.S.C. § 1319(b), and 28 U.S.C. §§ 1391(b) and (c) and 1395(a), because Northport is located in this judicial district and the events giving rise to the claims in the Complaint arose in this judicial district.

3. For purposes of this Consent Judgment, or any action or proceeding to enforce this Consent Judgment, Northport consents to the Court's jurisdiction over this Consent Judgment and any such action over Northport, and consents to venue in this judicial district.

4. For purposes of this Consent Judgment, Northport agrees that the Complaint states claims upon which relief may be granted pursuant to Section 309(b) and (d) of the Act, 33 U.S.C. §§ 1319(b) and (d).

III. APPLICABILITY

5. The obligations of this Consent Judgment apply to and are binding upon the United States, and upon Northport and any successors, assigns, or other entities or persons otherwise bound by law.

6. Northport shall provide a copy of this Consent Judgment as well as a summary of applicable requirements of this Consent Judgment to all officers, employees, and agents whose duties might reasonably include compliance with any provision of this Consent Judgment, as well as to any contractor retained to perform work required under this Consent Judgment.

Northport shall condition any such contract upon the performance of the work in conformity with the terms of this Consent Judgment.

7. In any action to enforce this Consent Judgment, Northport shall not raise as a defense the failure by any of its officers, directors, employees, agents or contractors to take any actions necessary to comply with the provisions of this Consent Judgment.

IV. DEFINITIONS

8. Terms used in this Consent Judgment that are defined in the Act, 33 U.S.C. §§ 1251 *et seq.*, or the regulations promulgated thereunder shall have the meanings assigned to them in the Act or such regulations, unless otherwise provided in this Consent Judgment. Whenever the terms set forth below are used in this Consent Judgment, the following definitions shall apply:

a. "**Clean Water Act (CWA)**" or "**Act**" shall mean the Federal Water Pollution Control Act, as amended, 33 U.S.C. §§ 1251 *et seq.*;

b. "**Complaint**" shall mean the complaint filed by the United States in this action;

c. "**Consent Judgment**" shall mean this decree and all appendices attached hereto and incorporated into this Consent Judgment (listed in Section XXIV), and any modifications made hereto pursuant to Section XVIII (Modification);

d. "**Date of Lodging**" shall mean the date on which a notice of lodging of this Consent Judgment is filed with the Clerk of the Court of the United States District Court for the Eastern District of New York;

e. Unless otherwise indicated, the term "**Day**" or "**Days**" as used herein shall mean a calendar day or days. References to "**business days**" shall mean days of the week other than Saturdays, Sundays, holidays, and days containing half-holidays. In computing any period of time under this Consent Judgment, if the last day would fall on a Saturday, Sunday, or federal holiday, the period shall continue until the next business day;

f. "**Dry Weather Inspections**" shall mean, for purposes of this paragraph, a visual observation and recording, by photographs, of the Outfalls to determine whether there is an indication of discharges not entirely composed of stormwater. Dry Weather Inspections shall be performed at a time when there has been no rainfall or snowmelt in the Village of Northport, New York for the preceding 48 hours according to the National Weather Service;

g. "**Dry Weather Sampling**" shall mean the taking of samples of any discharged liquids from the Outfalls at a time when there has been no rainfall or snowmelt in the Village of Northport, New York for the preceding 48 hours according to the National Weather Service;

h. "**Effective Date**" shall mean that date described in Section XVI (Effective Date);

i. "**EPA**" shall mean the United States Environmental Protection Agency and any of its successor departments or agencies;

j. "**Minimum Control Measures**" shall mean 1. Public Education and Outreach, 2. Public Involvement and Participation, 3. Illicit Discharge Detection and Elimination, 4. Construction Site Stormwater Runoff Control, 5. Post-Construction Stormwater Management, and 6. Pollution Prevention / Good Housekeeping for Municipal Operations, and the various components required under each, as described in the MS4 Permit;

k. "**MS4 Permit**" shall mean the most current version of the NYSDEC SPDES General Permit for Stormwater Discharges from MS4s, as defined by the present general permit number, GP-0-15-003, or, if applicable, the general permit number designated upon the renewal of the present permit;

l. "**Northport**" shall mean the Village of Northport;

m. **"Outfalls"** shall mean the ~~seventeenninefeen~~ active stormwater outfalls owned by the Village of Northport and identified on the attached Appendix A;

Commented [A2]: In February 2017, Northport provided a Map and Table identifying 19 outfalls. The Table lists the location of the 19 outfalls, but we're unable to identify which of the 19 listed outfalls are located at State Road 25A and are owned by the State.

If Northport wants us to reduce the list/table to 17 outfalls, please produce an updated table and map, which we will include in the CJ as Appendix A, by May 14, 2018.

n. **"Paragraph"** shall mean a portion of this Consent Judgment identified by an Arabic numeral;

o. **"Parties"** shall mean the United States and Northport;

p. "**Plan of Study**" shall mean the Village's illicit discharge detection and elimination ("IDDE") trackdown procedure dated February 27, 2013, which was approved by EPA by letter dated April 30, 2013 (*See* Appendix C);

q. **"Section"** shall mean a portion of the Consent Judgment identified by a roman numeral;

r. "**SPDES**" shall mean State Pollutant Discharge Elimination System, as established by 33 U.S.C. § 1342;

s. **"United States"** shall mean the United States of America, acting on behalf of the EPA;

t. "**Wet Weather Sampling**" shall mean the taking of samples of any discharged liquids from the Outfalls at a time when there has been rainfall or snowmelt in the Village of Northport, New York that produces measurable runoff to the MS4.

V. COMPLIANCE REQUIREMENTS

9. Northport shall fully comply with the terms and conditions of the most current version of the MS4 Permit, including more frequent outfall inspections and sampling should the requirements in the Permit renewal be more stringent than the inspection and sampling program set forth in Paragraph 10, below.

10. Outfall Inspections and Sampling.

a. Dry Weather Inspections. No later than ~~30 15~~ Days after the Effective Date, or if there is persistent rainfall or snowmelt within that ~~30 15~~ Day period, within one Day after the first ~~3 business days~~ 48 hours that there has been no rainfall or snowmelt in the Village of Northport, New York according to the National Weather Service, Northport shall complete a first set of Dry Weather Inspections at the Outfalls and document the results in a report. Thereafter, Northport shall perform a second set of Dry Weather Inspections of the

Commented [A3]: We are agreeable to extending the time to 30 days, as per your request.

Commented [A4]: Although Northport requested this be changed to 3 business days, 48 hours is the dry weather standard used in EPA guidance. It is used to ensure there is no rainfall or snowmelt during a period that still constitutes "dry weather."

Outfalls within one year after completing the first set of Dry Weather Inspections, and document the results of those Dry Weather Inspections in a report.

b. Dry Weather Sampling. If, during a Dry Weather Inspection of the Outfalls as required by Paragraph 10(a) above, Northport detects a liquid outflow, it shall perform Dry Weather Sampling as soon as practicable but no later than ~~three business days~~48 hours after identifying such dry weather flow. Northport shall document the results of any Dry Weather Sampling in a report.

Commented [A5]: To be discussed with Northport.

c. Wet Weather Sampling. No later than ~~30/15~~ Days after the Effective Date, or if there is no rainfall within that ~~30/15~~ Day period, within one Day of the first rainfall after the Effective Date, Northport shall have performed a first set of Wet Weather Sampling of the Outfalls and document the results in a report. Thereafter, based on the first set of results of Wet Weather Sampling, Northport shall perform another set of Wet Weather Sampling at outfalls that require subsequent investigation(s), in accordance with the Plan of Study and/or the trackdown procedures set forth in Paragraph 11, below, and document the results in a report.

Commented [A6]: No need for tide language as there are multiple low tides daily. In addition, after initial sampling, we don't require a specific time frame for subsequent sampling.

Commented [A7]: Northport, has this been completed already?

11. Trackdown. Upon receipt of any Dry Weather Sampling or Wet Weather Sampling results with a median most probable number ("MPN") value in any series of representative samples in excess of 70 MPN per 100 milliliters for Total Coliforms, Northport

shall implement trackdown procedures in accordance with paragraphs 4 to 8 of the Plan of Study (*See* Appendix C) (and associated subparagraphs) for each applicable outfall ("Priority Outfall").

Commented [A8]: The "70 MPN per 100 milliliters" language is taken from Northport's own POS, which was approved. It's a number from the WQS for Northport Harbor.

Northport also argues that "We have also informed you that the pipe on main street usually comes up 'hot' and we have exhausted all of our options. This has been previously acknowledged and [Northport] would like that pipe excepted from the trackdown."

They also ask "What happens if we can't eliminate the identified illicit discharge?... We also need to discuss money with regard to this."

We have tried to address those contingencies below, by adding the tracked language.

a. Northport shall commence implementation of trackdown procedures as soon as practicable but no later than 15 Days after the Date of Entry, or 15 Days after receipt of Sampling results, whichever is later.

b. Northport shall maintain dated, detailed documentation of all activities performed under the Plan of Study for each Priority Outfall.

c. For each Priority Outfall, upon complete implementation of the trackdown procedures in the Plan of Study, including necessary corrective action(s), Northport shall perform another set of Wet Weather Sampling and document the results in a report.

d. Northport shall continue to implement the trackdown procedures in its Plan of Study for each Priority Outfall until the following is completed and documentation is provided to EPA pursuant to Section IX (Reporting Requirements):

    1. Documentation demonstrating that Northport has completed a thorough trackdown investigation in accordance with the Plan of Study, including the elimination of identified illicit discharge(s);

    2. Another set of Wet Weather Sampling results that demonstrate the effectiveness of the corrective action(s); and

3. A signed certification statement from Northport's Stormwater Management Officer that either (i.) all potential sources of illicit discharges to the Priority Outfall have been investigated and eliminated, or (ii.) all potential sources of illicit discharges to the Priority Outfall have been investigated and, nonetheless, Northport had been unable to identify and eliminate the sources of the illicit discharges, and thereafter, EPA, in its sole discretion, provides written notice to Northport that it may terminate its trackdown procedures outlined in its Plan of Study for that Priority Outfall.

e. For each Priority Outfall, upon EPA's confirmation of receipt of the three items in Paragraph 11(d) above, Northport shall thereafter address illicit discharges through implementation of its Illicit Discharge Detection and Elimination program, including trackdown procedures, as required by the MS4 Permit and in accordance with its Approved Storm Water Management Program Plan.

f. The Parties agree that Northport has completed its trackdown procedures outlined in its Plan of Study with regard to the priority outfall on Main Street, marked on the accompanying Appendix B by the designation "MSPO" (Main Street Priority Outfall), and that, in its discretion, EPA has notified Northport that it may terminate trackdown procedures as outlined in its Plan of Study.

Commented [A9]: EPA is willing to provide this explicit statement that the trackdown procedures are complete, contingent on Northport's providing a certification as per 11.d.3.ii above.

12. Storm Water Management Program Plan. Within 180 Days of the Effective Date, Northport shall submit to EPA for approval an updated revised Storm Water Management Program Plan. The Storm Water Management Program Plan shall include a detailed written explanation of all management practices, activities and other techniques Northport has developed, planned or implemented to address pollutants of concern and reduce the discharge of pollutants from its MS4 to the maximum extent practicable, including Village-specific practices, policies and procedures addressing all six Minimum Control Measures and additional requirements for MS4s discharging to Pathogen Impaired Watershed Improvement Areas, as defined in the MS4 Permit. In addition to the requirements outlined above:

Commented [A10]: Northport would like the opportunity to prepare and submit the revised SWMP plan for EPA approval prior to the submission of the Consent to the Court.

EPA is willing to receive the updated SWMP Plan as soon as it is ready, but is not willing to delay the submission of the CJ until the updated SWMP Plan is approved. If Northport wants to pursue this, they should submit a proposed SWMP plan as soon as practicable.

a. Northport shall, as a component of Minimum Control Measure 3 (Illicit Discharge Detection and Elimination), identify Priority Outfalls, which at a minimum shall include outfalls where Dry Weather Sampling results or Wet Weather Sampling results required subsequent trackdown investigation(s) that are ongoing as of the Date of Entry. Northport shall include provisions in its Storm Water Management Program Plan to conduct Dry Weather Inspections at the Priority Outfalls at a minimum frequency of once per year.

b. Northport shall, as a component of Minimum Control Measure 3 (Illicit Discharge Detection and Elimination), develop a web-based complaint tool that allows members of the public to request information or submit complaints related to potential illicit discharges to the MS4.

Commented [A11]: What did Northport mean by its note here?

For discussion with NP.

c. Northport shall commence implementation of all aspects of the Storm Water Management Program Plan within 30 Days of EPA approval.

Commented [A12]: Again, Northport says they "want to set the plan first prior to any consent being sent to Court."

Northport can submit its plan at any point in time including as we negotiate this agreement, but we're not holding up the CJ for a determination. Northport should proceed now if it wants approval before submission of the CJ to the court.

d. Northport shall continue to update the Storm Water Management Program Plan in accordance with any applicable deadlines set forth in the most current version of the MS4 Permit.

13. The compliance requirements of this Consent Judgment do not relieve Northport of any compliance obligations required by the Act or its implementing regulations, or by any other federal or state law, regulation, permit, or other requirement.

14. Approval of Deliverables: After review of any plan, report, or other item that is required to be submitted pursuant to this Consent Judgment, EPA shall in writing: (a) approve the submission; (b) approve the submission upon specified conditions; (c) approve part of the submission and disapprove the remainder; or (d) disapprove the submission.

Commented [A13]: The POS has already been approved.

15. If the submission is approved pursuant to Paragraph 14(a), Northport shall take all actions required by the plan, report, or other document, in accordance with the schedules and requirements of the plan, report, or other document, as approved. If the submission is conditionally approved or approved only in part pursuant to Paragraph 14(b) or (c), Northport shall, upon written direction from EPA, take all actions required by the approved plan, report, or other item that EPA determines are technically severable from any disapproved portions, subject to Northport's right to dispute only the specified conditions or the disapproved portions, under Section XI (Dispute Resolution).

16. If the submission is disapproved in whole or in part pursuant to Paragraph 14(c) or (d), Northport shall, within 45 Days or such other time as the Parties agree to in writing, correct all deficiencies and resubmit the plan, report, or other item, or disapproved portion thereof, for approval, in accordance with the preceding Paragraphs. If the resubmission is approved in whole or in part, Northport shall proceed in accordance with the preceding Paragraph 15.

17. Any stipulated penalties applicable to the original submission, as provided in Section IX (Stipulated Penalties), shall accrue during the 45 Day period or other specified period, but shall not be payable unless the resubmission is untimely or is disapproved in whole or in part; provided that, if the original submission was so deficient as to constitute a material breach of Northport's obligations under this Consent Judgment, the stipulated penalties applicable to the original submission shall be due and payable notwithstanding any subsequent resubmission.

18. If a resubmitted plan, report, or other item, or portion thereof, is disapproved in whole or in part, EPA may again require Northport to correct any deficiencies, in accordance with the preceding Paragraphs, or may itself correct any deficiencies, subject to Northport's right to invoke Dispute Resolution procedures set forth in Section XI (Dispute Resolution) and the right of EPA to seek stipulated penalties as provided in the preceding paragraphs and Section IX (Stipulated Penalties).

19. Permits. Where any compliance under this Section requires Northport to obtain a federal, state, or local permit or approval, Northport shall submit timely and complete applications and take all other actions necessary to obtain all such permits or approvals.

Northport may seek relief under the provisions of Section X (Force Majeure) for any delay in the performance of any such obligation resulting from a failure to obtain, or a delay in obtaining, any permit or approval required to fulfill such obligation, if Northport has submitted timely and complete applications and has taken all other actions necessary to obtain all such permits or approvals.

VI. SUPPLEMENTAL ENVIRONMENTAL PROJECT

20. Northport shall implement the supplemental environmental project (SEP) described in Appendix B, involving [TBD].

21. Northport is responsible for the satisfactory completion of the SEP in accordance with the requirements of this Consent Judgment. "Satisfactory completion" means, at a minimum, performing tasks identified in Appendix B, which includes a Phase I Sub-watershed Assessment, Phase II Development of Conceptual Drainage Improvement, and Phase III Implementation of the SEP. Northport may use contractors or consultants in planning and implementing the SEP.

Commented [A14]: Northport says they "need further explanation and understanding of Appendix B. [They] also want further discussion with [us] regarding cost and offset of SEP."

Appendix B is the 2/2/17 document Northport provided EPA for review of its raingardens.

We also need an update on the project and costs in order to finalize our feedback and determination.

22. With regard to the SEP, Northport certifies the truth and accuracy of each of the following:

a. that all cost information provided to EPA in connection with EPA's approval of the SEP is complete and accurate, and that Northport, in good faith, estimates that the cost of the SEP is $[TBD].

b. that, as of the date of executing this Consent Judgment, Northport is not required to perform or develop the SEP by any federal, state, or local law or

regulation and is not required to perform or develop the SEP by agreement, grant, or as injunctive relief awarded in any other action in any forum;

c. that the SEP is not a project that Northport was planning or intending to construct, perform or implement other than in settlement of the claims resolved in this Consent Judgment;

d. that Northport has not received and will not receive credit for the SEP in any other enforcement action; and

e. that Northport will not receive any reimbursement for any portion of the SEP from any other person or entity;

f. that Northport is not a party to any open federal financial assistance transaction that is funding or could fund the same activities as the SEP described in Paragraph 20 and Appendix B. For purposes of this certifications, the term "open federal financial assistance transaction" refers to a grant, cooperative agreement, loan, federally-guaranteed loan guarantee, or other mechanism for providing federal financial assistance whose performance period has not yet expired.

23. SEP Completion Report: Within 60~~30~~ Days after the date set for completion of the SEP, Northport shall submit a SEP Completion Report to the United States, in accordance with Section XV (Notices). The SEP Completion Report shall contain the following information:

a. a detailed description of the SEP as implemented;

b. a description of any problems encountered in completing the SEP and the solutions thereto;

c. an itemized list of all SEP costs expended;

d. certification that the SEP has been fully implemented pursuant to the provisions of this Consent Judgment; and

e. a description of the environmental and public health benefits resulting from implementation of the SEP (with a quantification of the benefits and pollutant reductions, if feasible).

24. EPA may, in its sole discretion, require information in addition to that described in the preceding Paragraph, in order to evaluate Northport's SEP Completion Report.

25. After receiving the SEP Completion Report, the United States shall notify Northport whether or not Northport has satisfactorily completed the SEP. If Northport has not satisfactorily completed the SEP in accordance with this Consent Judgment, stipulated penalties may be assessed as set forth in Section IX (Stipulated Penalties) Consent Judgment.

26. Disputes concerning the satisfactory performance of the SEP and the amount of eligible SEP costs may be resolved under Section XI (Dispute Resolution). No other disputes arising under this Section shall be subject to Dispute Resolution.

27. Each submission required under this Section shall be signed by an official with knowledge of the SEP and shall bear the certification language set forth in Paragraph 35.

28. Public Statements. Any public statement, oral or written, in print, film, or other media, made by Northport making reference to the SEP under this Consent Judgment shall