



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

SEP 11 2007

VIA EXPRESS MAIL

REPLY TO THE ATTENTION OF: R-19J

Ronald J. Tenpas
Assistant Attorney General
United States Department of Justice
Environment and Natural Resources Division
950 Pennsylvania Ave., N.W., Room 2143
Washington, D.C. 20530

Re: *U.S. EPA Termination of Participation in the City of Midland, Michigan, Tittabawassee River, Saginaw River and Saginaw Bay Contamination Remediation and Damages Alternative Dispute Resolution Mediation*

Dear Mr. Tenpas:

This letter is to inform the United States Department of Justice that the United States Environmental Protection Agency, Region 5 (U.S. EPA or the Agency) intends to terminate its participation in the City of Midland, Michigan, Tittabawassee River, Saginaw River and Saginaw Bay Contamination Remediation and Damages Alternative Dispute Resolution (ADR) Mediation (the Mediation). Written notice of the Agency's intent to terminate its participation in the Mediation is being provided to the mediators and other parties to the Mediation today. A copy of this correspondence is attached for your convenience. Accordingly, pursuant to Paragraph 15 of the December 5, 2005 Confidentiality Agreement (the 2005 CA) governing the Mediation, the Agency's participation in the Mediation shall terminate, without prejudice, ten (10) days after the mediators and the other parties to the Mediation receive U.S. EPA's notice.

Some of the reasons the Agency has chosen to terminate its participation in the Mediation are set forth in U.S. EPA's notice of termination letter sent to the mediators and all of the parties to this matter. Please note that the Agency is cognizant of the fact that U.S. EPA will remain bound by the confidentiality provisions of the 2005 CA with respect to all dispute resolution communications made prior to the Agency's withdrawal from the Mediation. As a result of this decision, U.S. EPA does not intend to participate in the Mediation meeting scheduled to take place on September 18, 2007 in East Lansing, Michigan.

In addition, should the other parties, including the Department of Justice, proceed with the Mediation without the participation of U.S. EPA, the Agency would like an opportunity to discuss the United States' future participation in the Mediation with the Department of Justice. Of particular note, U.S. EPA has not referred to the Department of Justice any RCRA or CERCLA matter regarding contamination at or from the Dow Chemical Company's Midland

facility, and there may need to be some discussions regarding the scope of the Mediation.

Lastly, I want to thank you and all of the attorneys and managers at the Department of Justice who have worked on this matter. As the Agency states in its notice of termination letter, U.S. EPA would be more than willing to enter into a new ADR mediation to resolve outstanding natural resource damage claims.

If you have any questions concerning this letter or U.S. EPA's termination of its participation in the Mediation, please feel free to contact Leverett Nelson of the Office of Regional Counsel at 312-886-6666.

Sincerely,



Mary A. Gade
Regional Administrator

Attachment

cc: Robert A. Kaplan
Acting Regional Counsel

Margaret Guerriero, Director
Land and Chemicals Division