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October 11, 2018

Via Email Only

Sarah Hulstein
U.S. Environmental Protection Agency, Region 8
1595 Wynkoop Street
Denver, CO 80202-1129
Hulstein.Sarah@epa.gov

Re: Request for Final Documentation - Superfund Cooperative Agreement V 96803401

Dear Ms. Hulstein:

We are in receipt of your email to Lincoln County Commissioner Mark Peck dated October 4, 2018. As you may recall, I represent the Lincoln County Board of Health (“Board”) and previously sent you letters on this matter dated September 1, 2017, December 8, 2017, January 11, 2018, and March 2, 2018. I understand from your email that you are requesting clarification on: 1) the scope of the Board’s limited waiver of the attorney-client privilege over a July 5, 2017, letter from Doney Crowley, P.C., a Doney Crowley Draft Statement attached thereto, and a Doney Crowley Final Statement attached to my December 8, 2017 letter to you; and 2) whether the Board is claiming any business confidentiality to any portions of any documents the Board provided to the EPA.

In response to your inquiry, first, the Board’s limited waiver of the attorney client privilege as to the information outlined above was solely to provide that information to the EPA to assist the EPA in its investigation of this matter in determining Grant expenses incurred. The EPA was not, and is not, authorized to use that information (detailed descriptions of legal services rendered) for any other EPA purposes such as future EPA negotiations with the Board, etc. Second, we are not claiming any business confidentiality protection, as defined in 40 C.F.R., Part 2, Subpart B, to any of the documents the Board has previously provided to the EPA. However, we would ask that the EPA redact any and all bank account numbers prior to producing any documents in response to a FOIA request.

We understand from you that the EPA Office of Inspector General, the EPA branch associated with this investigation, has authorized the release of information in response to the

subject FOIA request. We had previously been told by the EPA OIG that we were not to discuss this matter because there was a pending investigation. Because EPA OIG is now agreeable to disclosing this matter in response to a FOIA request, we presume you have no further objection to us providing our relevant correspondence with EPA on this issue to the public

Also, as we requested in our January 11, 2018, and our March 3, 2018, letters, please send us your calculations as to how EPA calculated the \$331,911.61 amount of Grant funds allegedly paid to Doney Crowley, P.C. as well as any supporting documentation. As we mentioned in our January 11, 2018, letter, the amount we calculate that was paid to Doney Crowley does not reconcile with the amount calculated by the EPA.

Finally, as you know, we have promptly responded to all requests from the EPA on this issue. We have done that in an effort to get a prompt resolution/determination from EPA. This matter has now been pending since August 10, 2017, over a year. The Board would very much like to hear from the EPA regarding its investigation so the Board may report that outcome to the community. In that regard, we must ask that you please provide us with any such resolution/determination by December 1, 2018.

As always, should you have any questions or need any further information, please feel free to contact us.

Yours sincerely,

McGARVEY, HEBERLING, SULLIVAN
& LACEY, P.C.



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Cc: Mike Cole, Chair, Lincoln County Board of Commissioners
Mark Peck, Lincoln County Board of Commissioners
Marcia Boris, Lincoln County Attorney
Darren Coldwell, Lincoln County Administrator
Jan Ivers, Chair, City/County Board of Health for Lincoln County
James A. Hageman, Director of Grants, Audit and Procurement Office, U.S.
Environmental Protection Agency
Paul Felz, Audit Coordinator, U.S. Environmental Protection Agency, Region 8
Allan Payne, Doney Crowley, P.C.