



MEMORANDUM

To: Vienna

From: A.S. (Reviewer); Ohio EPA Legal Office.

Date: May 19, 2015

These files were reviewed to determine whether records contained herein are confidential or otherwise exempt from the disclosure obligations of Ohio Revised Code section 149.43.

Public records

No records were removed based on this review.

Not public

Records were removed or redacted for the reasons given below:

- Attorney- Client Privilege**, State ex rel. Leslie v. Ohio Hous. Fin. Agency, 105 Ohio St.3d 261, 265 (2005).
- Attorney Work Product**, Squire, Sanders & Dempsey, L.L.P. v. Givaudan Flavors Corp., 127 Ohio St.3d 161 (2010).
- Confidential Law Enforcement Investigatory Records**, ORC 149.43(A)(1)(h).
- Social Security Numbers**, State ex rel. Office of Montgomery County Pub. Defender v. Siroki, 108 Ohio St.3d 207 (2006).
- Release Prohibited by Law**, (i.e. trade secret), ORC 149.43(A)(1)(v).
- Other Specified Reason:** _____

All files are confidential

Should you have any questions regarding this issue, please contact Ohio EPA's Legal Office.

(This memorandum is to remain visibly attached to this file.)

Neuman Law Office, LLC
Douglas J. Neuman, Attorney at Law
Sergey O. Rumyantsev, Associate Attorney

761 North Cedar Avenue, Suite 1
Niles, Ohio 44446-2566
neumandouglas@gmail.com

P: 330.652.1749
F: 330.652.2356
attorney.s.rumyantsev@gmail.com

April 30, 2015

Jacqueline Bollas Caldwell
Attorney at Law
Krugliak, Wilkins, Griffiths & Dougherty Co., L.P.A.
P.O. Box 36963
Canton, OH 44735-6963

RE: *KDA Environmental Clean-up*

Dear Ms. Caldwell:

I am writing this letter to advise you that I represent James and Michael Zydyk. My clients collectively own approximately 165 acres located directly across the Sodom-Hutchings Road from the environmental spill that took place on the property operated by Kleese Development Associates.

To clarify the record, neither of my clients have given KDA, Hull & Associates, or any other subcontractors the right to enter upon their premises. My clients do not want to impede the clean-up of this hazardous spill site. However, there are conditions that must be met so as not to interfere with the residences in the immediate neighborhood and the farming that is conducted on the premises. The access to my clients' lands is conditioned upon the following matters being met to the satisfaction of the Zydyks:

1. A description and number of the types of equipment that will be used at the site; the work that is to be done at the site; and, the time period that it is anticipated the process will take.
2. A prohibition from working on the premises at such hours as will interfere with the farming operation on the premises and the enjoyment of the adjacent properties by the residence. Consequently, there should be no work done at night or on weekends.
3. Provision of a sufficient cash or surety bond to cover the cost for the damages that may be incurred as a result of the spill and the clean-up process. The amount of the bond will have to be at a minimum of \$1,000,000. The extent of the damage to my clients is unknown at this time. It is impossible for them to assess their loss until the Ohio Department of Natural Resources and the Ohio Environmental Protection Agency have determined that the site has been properly reclaimed. Consequently, my clients reserve their rights to pursue all lawful claims resulting from the spill.

4. A general indemnification for all damages suffered to the premises as a result of the spill and the clean-up in a form that is satisfactory to the respective counsel for the parties.
5. A letter identifying the responsible party or parties and acknowledging their liability for the spill and the reclamation.
6. Proof of insurance for the equipment or the contractors engaged in the clean-up process, including appropriate workers' compensation certificates.
7. Immediate discontinuation of the use of a private drive located northerly of the pond with a dike that is the eastern-most identified area for contamination and reclamation. This private drive was installed by Michael Zydyk so that he could access his rear property. It is not a gas well road. The gas well access ends westerly from this drive. However, KDA and its contractors have used this drive exclusively to access the eastern-most area of contamination. The heavy trucks have destroyed the drive. The drive must be restored to its prior condition and all truck and equipment traffic must cease immediately.

I am forwarding a copy of this letter to both the ODNR and the OEPA for their records. I look forward to working with you in order to expedite the reclamation of my clients' properties.

Sincerely,



Douglas J. Neuman