



Michael Best & Friedrich LLP  
Attorneys at Law  
David A. Crass  
T 202.595.7921  
E [dacrass@michaelbest.com](mailto:dacrass@michaelbest.com)

April 12, 2023

VIA EMAIL - (MOTLBJ@DOJ.STATE.WI.US)

Bradley J. Motl, Esq.  
Assistant Attorney General  
Wisconsin Department of Justice  
Public Protection Unit  
PO Box 7857  
Madison, WI 53707-7857

RE: State of Wisconsin v. Madison-Kipp Corporation, Dane Co. Case No. 12-CX-0046  
Stipulation and Order -- Groundwater Monitoring Requirements

Dear Brad:

Pursuant to Paragraph 18 of the Stipulation and Order for Judgment (Stipulation) dated November 22, 2017, between the State of Wisconsin and Madison-Kipp Corporation (MKC), the purpose of this letter is to provide written confirmation of the parties' discussion of February 14, 2023, wherein, via counsel, MKC agreed to accept the conditional approval of the modified groundwater monitoring requirements described in the Wisconsin Department of Natural Resources' January 6, 2023 letter to MKC. This written agreement, which incorporates feedback provided by you on March 7, 2023 regarding my February 15, 2023 letter, is consistent with the existing Paragraph 9.a.(v) of the Stipulation, wherein the parties agreed to review the sampling program after five years of semi-annual monitoring and determine the frequency of going forward sampling.

Specifically, the parties agree to the following, which replaces Paragraph 9.a. and Paragraph 9.b. of the Stipulation in its entirety:

*a. Monitoring*

- i. Madison-Kipp shall conduct sampling for PCBs, TSS, and TDS at MW-3D and MW-5S in April 2023. After completion of the April 2023 monitoring event, Madison-Kipp shall conduct annual sampling of MW-5S utilizing low-flow techniques and laboratory analysis for PCBs, TDS, and TSS using EPA SW-846 Method 8082. If PCBs are detected above laboratory reporting limits in MW-3D or MW-5S, or if other new or additional information is obtained, further groundwater investigation for PCBs may be necessary.
- ii. Samples collected pursuant to this subparagraph 9.a. shall be unfiltered. Total Suspended Solids (TSS) and Total Dissolved Solids (TDS) data shall be collected and used to evaluate the in-situ conditions present during the time of sample collection to determine whether conditions at the time of sampling may be inadvertently causing re-suspension and collection of PCB-impacted residual solids in the screened zone, potentially biasing the reported PCB concentration.
- iii. Madison-Kipp shall provide DNR with the results of the sampling required by this subparagraph 9.a. within 60 days of the sampling event.



Bradley J. Motl, Esq.  
Assistant Attorney General  
Wisconsin Department of Justice  
April 12, 2023  
Page 2

- iv. After three (3) years of annual sampling as required by Paragraph 9.a.(i), the parties shall review the sampling program and determine if the frequency of sampling can be reduced or discontinued.
- b. *Remedial Actions Options Analysis.* If two successive monitoring results obtained during the sampling events conducted pursuant to subparagraph 9.a identify detections of PCBs dissolved in groundwater (and not re-suspension and collection of PCB-impacted residual solids in the screened zone) in excess of the enforcement standard for PCBs in Wis. Admin. Code ch. NR 140 at any of the downgradient well locations identified as MW-3D, MW-5S, Madison-Kipp shall prepare a remedial action options analysis pursuant to Wis. Admin. Code ch. NR 722 that evaluates remedial action alternatives, including excavation and removal of the PCBs under the Facility, and shall transmit that analysis to DNR within 120 days of the sampling event that triggered the need for performance of the analysis. The parties will discuss the need for and timing of the performance of additional monitoring requirements (e.g., additional monitoring wells, more frequent monitoring, or currently unknown future analyses with lower laboratory detection limits) to confirm or further assess the presence of any PCBs dissolved in groundwater as part of the evaluation of the remedial action options analysis.

Pursuant to the USEPA TSCA PCB Coordinated Approval, dated April 2, 2019, after receiving a countersignature from you, MKC will provide notice of the above change to the Stipulation to USEPA.

Very truly yours,

**MICHAEL BEST & FRIEDRICH LLP**

David A. Crass  
Leah H. Ziemba

cc: Madison-Kipp Corporation  
Katherine Vater, TRC

Agreed to this 20<sup>th</sup> day of April, 2023.

Bradley J. Motl, Esq.  
Assistant Attorney General  
Wisconsin Department of Justice