

5-22-2020

From: Mark Stein

To: Merrimack Station NPDES Permit File

Re: Memo to File regarding 5/15/2020 EPA Region 1 Conference Call with GSP

(I first called Stephen Gidiere in the morning to arrange a follow-up call re coal-pile runoff for later that day.)

We then had the follow-up call between EPA Region 1 (Carl Dierker, Mark Stein, Cayleigh Eckhardt) and Stephen Gidiere, GSP's outside counsel.

We called him to discuss the coal pile runoff issue. We explained that since we learned that the Facility does not discharge the coal pile runoff to the slag settling pond and then the Merrimack River, and instead collects it in the trench system, we would be removing from the permit effluent limits and authorization for the discharge to the River. He understood that the permit would not authorize discharges of coal pile runoff to the River. We also indicated that with regard to whether or not there may be a discharge through the ground to the River that could need a permit under the just-issued Supreme Court decision in the *Maui* case, EPA has not as of this time made any investigation of how or where the coal pile runoff travels after entering the trench system, or made any determination about how the *Maui* multi-factor analysis might apply to this case or even whether such an analysis would be needed here. These may, however, be questions for future assessment.