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Environment Health Safety & Sustainability
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March 24, 2014

Carl E. Edlund
Superfund Division Director
Region 6
United States Environmental Protection Agency
1445 Ross Avenue, Suite 1200
Dallas, Texas 75202-2733

Re: Unilateral Administrative Order for Remedial Investigation/Feasibility Study ("UAO"), San Jacinto River Waste Pits Superfund Site ("Site") – Request for Reconsideration of Respondents' Request to Extend National Remedy Review Board Date

Dear Mr. Edlund:

International Paper Company ("International Paper"), a Respondent with McGinnes Industrial Maintenance Corporation ("MIMC") under the UAO, respectfully requests reconsideration of Region 6's denial of a March 12, 2014, written request (attached) to defer consideration of the San Jacinto River Waste Pits Superfund Site from the April 28, 2014, National Remedy Review Board ("RRB") meeting to the June 2014 meeting. As described below, this short deferral will not cause any delay to EPA's ultimate decision making time line; in contrast, the short extension would greatly improve the integrity of the decision making process for this important decision by enabling full and fair opportunity for consideration of the revised feasibility study ("FS") in advance on the RRB's meeting on highly technical, complex, and new issues. Absent such a modest extension, International Paper is very concerned that the current expedited schedule and the work required for an April 28th RRB meeting provides insufficient time for appropriate consideration of the revised FS in light of its submission on Friday, March 21—little more than a month prior to the meeting—and particularly given the inclusion for the first time of new and highly complex remedial alternatives. As explained below, there would be no prejudice to the agency's decision making from deferral of the RRB consideration until June, as such extension would still preserve the schedule initially agreed to as part of the FS and would be consistent with the Region's plan to select a remedy by September 2014.

Background

Since 2009, Respondents have conducted a remedial investigation/feasibility study ("RI/FS") for the Site. The Site is located along Interstate 10 ("I-10") where it crosses the San Jacinto River, and includes an area north of I-10 where paper mill waste was disposed of in impoundments during the 1960s ("Northern Impoundments") and an area on a peninsula located south of I-10.

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In addition to conducting an RI/FS, Respondents completed a time critical removal action in July 2011 with respect to the Northern Impoundments.

In accordance with the approved schedule for the RI/FS, Respondents submitted a Draft Feasibility Study ("Draft FS") on August 30, 2013. The Draft FS included remedial alternatives that had been screened with Region 6 prior to submission of the Draft FS. They included remedial alternatives for the Northern Impoundments and proposed institutional controls for the area to the south. The RI/FS schedule contemplated that Region 6 would provide comments on the Draft FS within 45 business days (by November 1, 2013), and that Respondents would then have 30 business days to submit a revised "interim" FS after which Region 6 would issue a proposed remedial action plan ("Proposed Plan").

Respondents received comments from the Region on the Draft FS in January 2014, nearly five months after its submission and well past the deadline of November 1, 2013. Notably, the extensive comments required Respondents for the first time to develop and include in a revised FS a significant and complex additional remedial alternative for the Northern Impoundments and a full suite of remedial alternatives for the area south of I-10. In the weeks following issuance of the January 2014 comments, EPA further defined and enlarged the scope of the additional remedial alternative for the Northern Impoundments. Finally, Respondents were required to submit a revised FS by March 21, 2014.

Importantly, following the receipt of EPA's comments, Respondents also learned for the first time, that Region 6 intended to propose the Site to the RRB and that this Site would be considered at a meeting on April 28, 2014. They were also informed by the Remedial Project Manager that EPA's submission of its remedy proposal and "package" for the Site would be due to the RRB no later than April 4, 2014. This is a mere two weeks after Respondents submit the revised FS.

Respondents worked hard to ensure that the revised FS included the significant additional remedial alternatives requested by EPA in its January comments and the later, February 2014 clarification by EPA expanding the scope of the additional alternative for the Northern Impoundments. The revised FS also addressed Region 6's other comments on the Draft FS.

Request for Deferral to June RRB meeting

At the outset, Respondents submitted the revised FS as scheduled on March 21and have not sought an extension of that deadline. At the same time, and with respect, International Paper is extremely concerned that given the significance of the decision and the introduction of new and complex remedies into the FS for the first time, the April 28th RRB meeting creates a schedule that will not permit adequate time for full and fair consideration of the revised FS. Participants in the remedy selection process will need adequate time well in advance of the April 28th meeting to review and consider information regarding the new remedial alternatives included in the March 21 submittals. The schedule has already been compressed because of the delay in receiving comments from the Agency on the August 2013 Draft FS. Respondents are standing by at this time to work with the Agency to address any comments and questions on the revised FS, but International Paper believes that the Agency must provide adequate time to engage on such an impactful decision, and to fully study the issue.

In turn, the modest extension being requested until June would allow Region 6 to appropriately review and consider the revised FS in developing its remedy proposal. Further, a June meeting should not bar the Region's plan to select a remedy by September. In addition, and as noted in the March 12 enclosed request, the RI/FS schedule contemplated a period of more than 60 days for activities following submission of the revised FS and leading up to the issuance of a Proposed Plan. Deferring RRB consideration would therefore preserve the schedule that was originally agreed to for the FS.

International Paper fully appreciates and supports the Agency's interest in advancing the process toward a final decision. This request will not cause any further delay, but will only enhance the integrity of the process on a critical and significant decision. Thank you for your consideration of this request for reconsideration. Please do not hesitate to contact me if you have any further questions.

Very truly yours,

INTERNATIONAL PAPER COMPANY

Philip J. Slowiak, Sr., CSP
Senior Program Manager
Environmental Remediation

Attach/

cc: Gary Miller
Carlos Sanchez
John Meyer

From:	David Keith
To:	Gary Miller (miller.garyg@epa.gov)
Cc:	Dave Moreira (dmoreira@wm.com); Philip J Slowiak
Subject:	RRB Extension Request
Date:	Wednesday, March 12, 2014 9:47:04 AM

Gary – As you indicated USEPA Region 6 intends to propose the San Jacinto Site to the National Remedy Review Board (RRB) on April 28, 2014. We understand that based on our conversation, a significant amount of work on your part goes into preparation for that meeting.

We are concerned that the ongoing schedule of activities for the Site has created insufficient lead time to provide all parties opportunities to fully inform themselves regarding the deliverables that will be made between now and when you must prepare your RRB package. Moreover, the number of comments supplied to the PRP group regarding the Draft FS are significant and the Final Draft FS that will be delivered to you on March 21, 2014, will contain the requested changes; however, there is a lot of new information that needs to be reviewed and considered before the RRB meeting. We think that the additional time from April 28 to sometime in June will provide sufficient opportunities for the Group and Stakeholders to review new materials and collaborate in a constructive way to prepare RRB presentations. I note that in the schedule leading up to the deliverables in the FS provided 60 days for needed follow-up activities, and the requested extension merely preserves the schedule that USEPA established for the FS.

I will call you to follow up on the request later today. As always, thank you for your consideration.

Regards,
David

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