UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 6
1445 ROSS AVENUE, SUITE 1200
DALLAS TX 75202-2733

JAN 25 2011

Colonel Christopher W. Sallese
District Engineer, Galveston District
Department of the Army, Corps of Engineers
P.O. Box 1229
Galveston, TX 77553-1229

Mark R. Vickery, P.G.
Executive Director
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, TX 78711-3087

Re: San Jacinto River Waste Pits Superfund Site, Harris County, Texas

Dear Colonel Sallese and Mr. Vickery:

This letter represents an update by the U.S. Environmental Protection Agency (EPA) on the permits area of concern around the San Jacinto River Waste Pits Superfund Site (Site), as detailed in our October 13, 2009, letters to the U.S. Army Corps of Engineers (USACE) and the Texas Commission on Environmental Quality (TCEQ).

As you know, due to the unique location of the Site within the Houston Ship Channel/Galveston Bay (HSC/GB) watershed, permitted activities under Clean Water Act Section 404 and Rivers & Harbors Act Section 10 that impact the Site may expose permittees to CERCLA liability. To minimize permittee exposure to CERCLA liability and to continue HSC/GB watershed permitted activities, an interagency workgroup between EPA, USACE, and TCEQ developed a Permit Pre-Conditions and Conditions Process (also known as the Permit Evaluation Requirement Process), which all pending permit applicants and existing permittees within a defined permits area of concern must undertake. This has been in effect since November 2009.

However, it has come to our attention that if a dredging project is outside the permits area of concern, there is no special permits process that would be required if that dredging project's disposal happens to be inside the permits area of concern. Thus, there is a possibility for dredging projects outside of the permits area of concern to unintentionally bypass the disposal allowance set for all pending permit applicants and existing permittees of dredging projects inside the permits area of concern.

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Therefore, the permits process would need to apply to all dredge materials disposed inside the permits area of concern, regardless of origin in the HSC/GB watershed to ensure that disposal within the permits area of concern would be governed by the same dioxin level allowance that has been set. There are no other changes to the Permit Pre-Conditions and Conditions Process or the area of concern boundary.

We look forward to updating you again as progress continues on this Site. If there are any questions regarding this matter, please feel free to contact Ms. Sharon Parrish at (214) 665-7275, Mr. Carlos Sanchez at (214) 665-8507, or Mr. Stephen Tzhone of my staff at (214) 665-8409.

Sincerely yours,

Miguel I. Flores
Director
Water Quality Protection Division

Samuel Coleman, P.E.
Director
Superfund Division