Donohue, Brian

DEPT. OF JUSTICE - ENRD
ENVIRONMENT DIVISION

PUBLIC NOTICE: LPRSA SAMPLE DISPOSAL SET FOR FEBRUARY 19, 2015

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PLEASE TAKE NOTICE THAT, the Lower Passaic River Study Area (LPRSA) Cooperating Parties Group (hereinafter CPG) has been working cooperatively with EPA pursuant to two agreements: Administrative Settlement Agreement and Order on Consent for Remedial Investigation/Feasibility Study, CERCLA Docket No. 02-2007-2009 and Administrative Settlement Agreement and Order on Consent for Removal Action, CERCLA Docket No. 02-2012-2015 (hereinafter the "AOCs").

Pursuant to the AOCs, the CPG has collected sediment, surface water and fish tissue samples within the LPRSA, pursuant to EPA-approved work plans and under EPA oversight. The CPG has analyzed many of the samples, using EPA-approved methodologies, and has data confirming the results of the analyses. The data can be found at http://passaic.sharepointspace.com.

The CPG hereby provides notice that it plans to dispose of certain samples, as described herein, unless another entity takes custody of those samples, in accordance with the terms of this notice.

1. The CPG intends to dispose of certain surface water samples (SW Samples), as described herein, which were collected by the CPG between 2011 and 2013 during the course of their work related to the AOCs.

2. The SW Samples include approximately 5,911 40 mL or 1L bottles, which are presently housed in controlled storage units under contract with the following analytical laboratories:

- ALS Life Sciences, Kelso, WA;
- Brooks Rand Labs, Seattle, WA;
- SGS, Wilmington, NC;
- TestAmerica, Knoxville, TN, West Sacramento, CA and Pittsburgh, PA.

3. A list of the SW Sample IDs associated with the stored samples that will be discarded is available at http://www.lowerpassaiccpg.com.

4. Each of the SW Samples is beyond the "Sampling Retention Period" as noted in the approved Quality Assurance Project Plan/Field Sampling Plan Addendum, Remedial Investigation Water Column Monitoring/Small Volume Chemical Data Collection, July 2012 and High Volume Chemical Data Collection, December 2012. The Sampling Retention Period is the period of time following collection of the sample following which the sample will be unable to provide viable results. As a result, the CPG does not warrant any individual SW Sample's ability to provide viable results. In fact, the CPG does not believe analysis of the SW Samples is appropriate since they are beyond the Sampling Retention Date, and the CPG specifically reserves the right to argue in any forum that SW Samples which exceed the Sample Retention Date are not viable for purposes of analysis, or that the results of any analysis performed on such SW Sample are flawed and/or unreliable.

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5. The SW Samples include duplicates and other water samples that were not intended for analysis. However, this subgroup of the total SW Samples is very small. The majority of the SW Samples were analyzed and the CPG has retained the results and data from those analyses. Those data can be found on http://passaic.sharepointspace.com. The raw data have also been provided to EPA on CDs. If a party desires copies of the CDs, the cost of production of those CDs shall be borne by the interested party.

6. The SW Samples will be disposed of on February 19, 2015, unless the individual identified in Paragraph 9 receives written notice on or before February 18, 2015 that: (1) the interested party is willing to take ownership and custody of the SW Samples; and (2) the interested party is willing to execute an Ownership and Custody Agreement, per Paragraph 7.

7. The CPG has prepared an Ownership and Custody Agreement, which contains reasonable terms for transferring ownership and custody of the SW Samples to the interested party. The terms of the Ownership and Custody Agreement are non-negotiable. According to the terms of the Ownership and Custody Agreement, those interested parties who seek to obtain the SW Samples agree to accept responsibility for the transportation, care, storage, handling, maintenance, chain of custody, notice of later testing, and ultimate disposal of the SW Samples. The Ownership and Custody Agreement will also provide a date certain for the interested party to remove the SW Samples from the controlled storage units or otherwise take responsibility for payment of storage fees to ALS Life Sciences, Brooks Rand Labs, SGS, and TestAmerica. For purposes of full disclosure, monthly storage fees currently run $16,788. A copy of the Ownership and Custody Agreement will be provided to an interested party upon the CPG's receipt of the notice identified in Paragraph 6. The Ownership and Custody Agreement must be executed and returned within 30 days of the CPG's receipt of the notice identified in Paragraph 6. The CPG reserves its right to assert that any person or party that does not request an Ownership and Custody Agreement, or requests the Ownership and Custody Agreement but does not execute and return it within 30 days, waived any claims or arguments regarding the transfer or disposal of the SW Samples by the CPG.

8. In the event that more than one party submits a request for SW Samples, preference will be given first to federal agencies, then to state agencies, then to private parties. In the event more than one private party demonstrates an interest in obtaining SW Samples, the SW Samples will be provided on a first come, first serve basis. The CPG reserves all rights regarding the transfer of the SW Samples.

9. If you are interested in obtaining ownership and custody of the SW Samples, please provide written notice in accordance with Paragraph 6 to William H. Hyatt, Jr., One Newark Center, Tenth Floor, Newark, New Jersey 07102. Again, written notice must be received on or before February 18, 2015.