UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

May 20, 2019

REPLY TO THE ATTENTION OF

BY E-MAIL AND REGULAR MAIL
Norman W. Bernstein
N.W. Bernstein & Associates
800 Westchester Avenue, Suite N319
Rye Brook, NY 10573

Re: Informal Dispute Regarding EPA's Bill for Third Site Costs for the period November 6, 2016 through November 5, 2017

Dear Mr. Bernstein,

EPA has reviewed your March 18, 2019 letter disputing $33,148.26 in oversight costs billed on November 27, 2018 under the Third Site Consent Order, as amended. For the reasons described below, EPA concludes that all of the disputed costs are appropriately billed and should be paid immediately, with accrued interest.

The Third Site Trustees' informal dispute letter identifies several categories of costs:

1. Army Corps of Engineers Field Oversight and Transportation Charges. The Trustees assert that these costs are outside the scope of "oversight costs" under the May 3, 2018 dispute resolution decision. The provision interpreted by dispute resolution decision, however, has been superseded by the December 12, 2016 amendment to the Third Site Consent Order. The December 12, 2016 amendment revised the oversight billing provisions of Consent Order so that the field oversight/non-field oversight distinction no longer applies to Electrical Resistive Heating (ERH)-related costs. All of the Army Corps' field work costs are connected to the ERH, are appropriate oversight costs, and should be paid.

2. EPA Payroll. The Trustees correctly note that EPA previously excluded the personnel time spend preparing oversight bills from its bills. However, the formal dispute decision specifically noted that "the costs incurred preparing annual Itemized Cost Summaries for this Site pursuant to Section VII(E) are 'oversight costs.'" Similarly, billing Mark Koller's time for assisting the Superfund Division Director with the dispute resolution decision is in accordance with the dispute decision (pp. 5-6). All of those charges are appropriate oversight costs and should be paid.

3. Tetra Tech Field Oversight Charges. The Trustees assert that these costs are outside the scope of "oversight costs" under the May 3, 2018 dispute resolution decision. The provision interpreted by dispute resolution decision, however, has been superseded by the December 12, 2016 amendment to the Third Site Consent Order. The December 12, 2016

amendment revised the oversight billing provisions of Consent Order so that the field oversight/non-field oversight distinction no longer applies to Electrical Resistive Heating (ERH)-related costs. All of the Tetra Tech field work costs are connected to the ERH, are appropriate oversight costs, and should be paid.

4. Tetra Tech Annual Allocation. In past billing cycles, the Trustees argued that annual allocation costs are not "oversight costs" for purposes of billing. The formal dispute resolution decision (p. 6) rejected those arguments. All of those charges are appropriate oversight costs and should be paid

5. Tech Law Backup Documentation. The missing page of Techlaw documentation is attached. All of the Tech Law charges are appropriate oversight costs and should be paid

6. Contract Lab Program Backup Documentation. Additional documentation is attached. All of those charges are appropriate oversight costs and should be paid.

7. Various Legal Defenses. In past billing cycles, the Trustees raised legal arguments that EPA costs may be subject to reasonableness limitations and that the Consent Order they signed denies them due process. The formal dispute resolution decision (p. 6) rejected those arguments. All of the charges in EPA's bill are appropriate oversight costs and should be paid.

After evaluating the matters raised in the Trustees' notice of informal dispute, EPA has concluded that: (1) there is no basis to adjust or revise the November 27, 2018 bill; (2) the Trustees must pay the remaining $33,148.26 in oversight costs; and (3) the Trustees must also pay all interest accrued from January 2, 2019, until the date of payment, in the interest-bearing escrow account they established under Section VII.E of the Consent Order.

Please make payment in full at your earliest convenience. If you have any questions concerning this response, please contact me at (312) 886-0562 or Krueger.Thomas@epa.gov.

Sincerely,

Thomas J. Krueger
Associate Regional Counsel

cc (by e-mail only): Matthew Ohl, EPA
Richard Hackley, EPA
Bonnie Cosgrove, DOJ
Douglas Petroff, IDEM
Peter Racher, Plews Shadley Racher & Braun

Enclosures

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TechLaw

ESAT MONTHLY FINANCIAL REPORT
TASK ORDER DETAIL

Monthly Activity: (Loaded)
Covering Period: May 2017

Contract: EP-W-13-025
(MONTH ENDING 05/26/2017)

Task Name: SUPERFUND TO 11

Task Order	TDF#	Description	Site	OU	Hours Month	Hours ITD	Labor $ Month	Labor $ ITD	Travel & ODC Month	Travel & ODC ITD	Total $ Month	Total $ ITD
11	0427	PMC GW SITE - MESRG7+	0554	00	0.0	5.0	$0.00	$210.00	$0.00	$0.00	$0.00	$210.00
11	0450	LUSHER STREET-E60P6	05AB	00	0.0	20.5	$0.00	$1,352.00	$0.00	$0.00	$0.00	$1,352.00
11	0453	LUSHER STREET-E60R8/R6	05AB	00	0.0	18.4	$0.00	$1,240.00	$0.00	$0.00	$0.00	$1,240.00
11	0113	DOVER CHEMICAL-WIPE MAR17	05B5	00	34.5	215.5	$2,143.00	$12,274.00	$0.00	$0.00	$2,143.00	$12,274.00
11	0217	DOVER CHEMICAL -ICP WIPE	05B5	00	0.0	55.0	$0.00	$3,688.00	$0.00	$0.00	$0.00	$3,688.00
11	0468	DOVER CHEMICAL-E5MM5	05B5	00	0.0	2.8	$0.00	$190.40	$0.00	$0.00	$0.00	$190.40
11	0471	DOVER CHEMICAL - E5QS8	05B5	00	20.3	20.3	$1,380.40	$1,380.40	$0.00	$0.00	$1,380.40	$1,380.40
11	0110	CONTINENTAL ST- SEMI 1/17	05BW	00	0.0	95.1	$0.00	$5,765.40	$0.00	$0.00	$0.00	$5,765.40
11	0111	CONTINENTAL ST-VOA FEB 17	05BW	00	0.0	113.5	$0.00	$7,323.00	$0.00	$0.00	$0.00	$7,323.00
11	0112	CONTINENTAL ST- MAR17 VOA	05BW	00	0.0	42.0	$0.00	$2,786.00	$0.00	$0.00	$0.00	$2,786.00
11	0115	CONTINENTAL ST-APR 17 VOA	05BW	00	0.0	43.5	$0.00	$2,958.00	$0.00	$0.00	$0.00	$2,958.00
11	0116	CONTINENTAL-MAY2017 VOA	05BW	00	27.0	27.0	$1,787.00	$1,787.00	$0.00	$0.00	$1,787.00	$1,787.00
11	0117	CSSS- ORG ANNUALS MAY17	05BW	00	280.5	280.5	$17,667.00	$17,667.00	$0.00	$0.00	$17,667.00	$17,667.00
11	0218	CONTINENTAL ST-APR2017 TP	05BW	00	0.0	33.5	$0.00	$1,537.00	$0.00	$0.00	$0.00	$1,537.00
11	0222	CSSS- ANNUAL2017 METALS	05BW	00	27.5	27.5	$1,870.00	$1,870.00	$0.00	$0.00	$1,870.00	$1,870.00
11	0223	CSSS- ANNUAL 2017-CN	05BW	00	22.7	22.7	$1,023.60	$1,023.60	$0.00	$0.00	$1,023.60	$1,023.60
11	0224	CSSS- ANNUAL 2017 - FL	05BW	00	13.5	13.5	$593.00	$593.00	$0.00	$0.00	$593.00	$593.00
11	0225	CSSS- ANNUAL 2017-HG	05BW	00	22.0	22.0	$1,431.00	$1,431.00	$0.00	$0.00	$1,431.00	$1,431.00
11	0226	CONTINENTAL ST- MAY TPHOS	05BW	00	8.5	8.5	$357.00	$357.00	$0.00	$0.00	$357.00	$357.00
11	0448	CONTINENTAL STEEL-ESWS6	05BW	00	0.0	10.2	$0.00	$676.80	$0.00	$0.00	$0.00	$676.80
11	0449	CONTINENTAL STEEL-MESWS6	05BW	00	0.0	10.2	$0.00	$485.60	$0.00	$0.00	$0.00	$485.60
11	0452	CONTINENTAL STEEL-PESWSX2	05BW	00	0.0	18.4	$0.00	$1,251.20	$0.00	$0.00	$0.00	$1,251.20
11	0468	CONTINENTAL ST-E5SS6 MAN	05BW	00	0.0	11.2	$0.00	$761.60	$0.00	$0.00	$0.00	$761.60
11	0444	SE ROCKFORD GW-E3Y20	05DK	00	0.0	2.3	$0.00	$156.40	$0.00	$0.00	$0.00	$156.40
11	0456	SE ROCKFORD GW -E3Y31	05DK	00	0.0	11.9	$0.00	$781.20	$0.00	$0.00	$0.00	$781.20
11	0462	SE ROCKFORD GW-E3Y39	05DK	00	0.0	9.2	$0.00	$625.60	$0.00	$0.00	$0.00	$625.60
11	0467	SE ROCKFORD GW-E3Y50/43	05DK	00	0.0	20.4	$0.00	$1,387.20	$0.00	$0.00	$0.00	$1,387.20
11	0447	PEERLESS PLATING-ME60K4+	05G2	00	0.0	49.3	$0.00	$2,637.40	$0.00	$0.00	$0.00	$2,637.40
11	0119	THIRD SITE OS- 1-4 DIOXAN	05HM	00	2.5	2.5	$135.00	$135.00	$0.00	$0.00	$135.00	$135.00

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CONFIDENTIAL

Option 1
CSRA LLC
EPA Contract No. EP-W-14-004
Billing Period 05/27/2017 - 06/30/2017

W.A.	Region / Site No.	Action Code	Operable Unit	Site Name	Current Amount	Cumulative Amount
1-08	05 71	LA	00	TAR LAKE	0.00	1,810.56
1-07	05 AB	LA	00	LUSHER STREET GROUND WATER CONTAMINATION	0.00	141.02
1-08	05 AB	LA	00	LUSHER STREET GROUND WATER CONTAMINATION	0.00	407.38
1-07	05 B5	LA	00	DOVER CHEMICAL CORP.	9.48	150.60
1-08	05 B5	LA	00	DOVER CHEMICAL CORP.	0.00	765.96
1-07	05 BW	LA	01	CONTINENTAL STEEL CORP.	104.28	1,546.91
1-08	05 BW	LA	01	CONTINENTAL STEEL CORP.	866.89	2,031.51
1-07	05 DJ	LA	00	ADAM'S PLATING	0.00	911.27
1-08	05 DJ	LA	00	ADAM'S PLATING	0.00	729.87
1-07	05 DK	LA	00	SOUTHEAST ROCKFORD GROUND WATER CONTAMINATION	0.00	284.36
1-08	05 DK	LA	00	SOUTHEAST ROCKFORD GROUND WATER CONTAMINATION	99.71	1,640.90
1-07	05 G2	LA	00	PEERLESS PLATING CO.	265.41	450.76
1-08	05 G2	LA	00	PEERLESS PLATING CO.	0.00	479.85
1-07	05 HM	LA	00	THIRD SITE	85.34	85.34
1-08	05 HM	LA	00	THIRD SITE	26.63	26.63
1-07	05 WJ	LA	00	CIRCLE SMELTING CORP.	0.00	46.52
1-08	05 WJ	LA	00	CIRCLE SMELTING CORP.	0.00	150.36
1-07	05 XW	LA	02	COPLEY SQUARE PLAZA	0.00	413.62
1-08	05 XW	LA	02	COPLEY SQUARE PLAZA	0.00	2,233.86
1-07	B5GJ	LA	00	AMERICAN LEAD CORPORATION	0.00	260.25
1-08	B5GJ	LA	00	AMERICAN LEAD CORPORATION	0.00	417.25
1-07	B5A1	LA	00	OLD AMERICAN ZINC PLANT	123.25	123.25
1-07	B5FN	LA	00	LITTLE GIANT MINE	0.00	53.02
1-08	B5FN	LA	00	LITTLE GIANT MINE	0.00	125.39
1-07	B5GS	LA	00	BECK'S LAKE	0.00	215.33
1-08	B5GS	LA	00	BECK'S LAKE	0.00	437.21
1-07	B5JX	LA	00	HARVARD INDUSTRIES	47.41	47.41
1-07	B5NW	LA	00	CLIFF DRIVE GROUND WATER CONTAMINATION SITE	0.00	107.59
1-08	B5NW	LA	00	CLIFF DRIVE GROUND WATER CONTAMINATION SITE	0.00	265.14
1-07	B5QR	LA	00	LASALLE RAIL YARD	0.00	44.17
1-08	B5QR	LA	00	LASALLE RAIL YARD	0.00	95.69
1-07	B5SV	LA	00	WEST TROY CONTAMINATED AQUIFER	0.00	88.33
1-08	B5SV	LA	00	WEST TROY CONTAMINATED AQUIFER	0.00	815.56
1-07	B5SW	LA	00	MILFORD CONTAMINATED AQUIFER	0.00	224.78

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