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August 15, 2013 ***VIA ELECTRONIC & US MAIL***

Ms. Stephanie Vaughn
ATTN: Lower Passaic River Remedial Project Manager
Emergency and Remedial Response Division
U.S. EPA, Region 2
290 Broadway, 19th Floor
New York, New York 10007

Re: Monthly Progress Report No. 11 – July 2013
Lower Passaic River Study Area (LPRSA)
River Mile 10.9 Removal Action
CERCLA Docket No. 02-2012-2015

Dear Ms. Vaughn:

de maximis, inc. is submitting this Monthly Progress Report for the above-captioned project on behalf of the Cooperating Parties Group (CPG) pursuant to the Administrative Settlement Agreement and Order on Consent for Removal Action (Settlement Agreement or AOC). The Progress Report satisfies the reporting requirements of Paragraph 28 of the River Mile (RM) 10.9 Settlement Agreement.

(a) Actions which have been taken to comply with this Settlement Agreement during the month of July, 2013.

Meetings/Conference Calls

- On July 2, CPG met with EPA's On-Scene Coordinator in the Lyndhurst Park to provide an overview of expected operations.
- On July 17, EPA met with CPG and its contractors to review Removal Action implementation plans.
- On July 18, CPG met with the Hudson and Essex County engineering staff to discuss bridge issues.
- On July 24, CPG met with Bergen County engineers to discuss DeJessa Ave bridge operations.
- On July 25, CPG and EPA met to review mobilization plans.
- On July 26, CPG met with the Essex County Engineer to discuss bridge issues.
- On July 31, EPA met with CPG in the Lyndhurst Park during the deployment of dredging equipment to review final plans for environmental monitoring of the Removal Action.

Correspondence

- On July 1, CPG was notified that Clean Earth received their Alternate Use Determination (AUD) for RM 10.9 sediment.

- On July 1, CPG requested from the State of New Jersey an invoice to pay the processing fee associated with a Tidelands license.
- On July 1, CPG contacted the County Executives of Hudson and Essex Counties to request their assistance in arranging a meeting between CPG and County Engineers concerning Bridge Street Bridge (BSB) operability issues.
- On July 1, CPG forwarded to EPA a draft QAPP Addendum A Supplement.
- On July 2, CPG forwarded to EPA four of its subcontractors' implementation plans.
- On July 2, CPG submitted to EPA responses to EPA's comments covering the Final Design Report, Cap Design details, and the Long Term Monitoring Plan.
- On July 3, CPG notified EPA of its efforts to work with Essex and Hudson Counties regarding the BSB issues.
- On July 5, CPG informed EPA about its contractor's anticipated schedule for a pre-dredge bathymetry survey of the removal area.
- On July 8, EPA approved plans to proceed with the pre-dredge bathymetry survey.
- On July 9, Essex and Hudson Counties set a date of July 18 for a meeting with CPG and CPG informed EPA.
- On July 9, EPA requested calibration and QC procedures that will be associated with the pre-dredge bathymetry survey. EPA requested the status of BSB repairs, if known.
- On July 10, CPG provided the calibration and QC procedures to EPA. EPA responded with questions concerning the establishment of GPS base stations and tide boards.
- On July 11, CPG submitted to EPA its response to comments on the draft Perimeter Air Monitoring Plan (PAMP), as well as the revised PAMP.
- On July 11, CPG informed EPA that Hudson County engineers stated that they anticipated receipt of the repaired BSB motors by July 15, and that it would be installed by July 22.
- On July 11, CPG provided responses to EPA's questions on GPS base stations for the bathymetry survey.
- On July 12, Jersey City Municipal Utility Authority (JCMUA) notified CPG that it was revising the offset requirements for dredging around its water lines crossing the Removal Area; CPG informed EPA.
- On July 15, EPA denied CPG's June 29 notice of Force Majeure caused by the inoperability of the BSB and instead approved a schedule change for work to start by August 2.
- On July 15, CPG submitted two technical memoranda to EPA on Turbidity : Suspended Solids Concentration (SSC) correlations, and a proposal for revised turbidity trigger and action values.
- On July 15, Hudson County informed CPG that the BSB motors have been delayed and were now expected to be delivered on July 26; CPG informed EPA.
- On July 16, CPG asked the Counties to evaluate if BSB could be manually opened to allow equipment mobilization prior to its repair.
- On July 16, EPA provided an agenda for the July 17 meeting with CPG.

- On July 18, EPA provided CPG with a summary of the July 17 meeting outcome and action items.
- On July 18, Hudson County informed CPG that the BSB motors were due to ship on July 26, and would take 1 to 2 weeks for it to be delivered, installed and tested.
- On July 19, CPG updated EPA with its understanding regarding BSB operability and anticipated repair schedules.
- On July 19, CPG provided EPA with a summary of its July 18 meeting with Hudson and Essex Counties.
- On July 22, EPA requested that CPG provide an update on project mobilization plans.
- On July 22, CPG notified EPA about its plans to mobilize equipment to the RM 10.9 Removal Area on July 29-30, and that it would need 10 bridges to be opened on the Passaic River to support the mobilization, including a manual opening of BSB.
- On July 23, EPA requested the status of the pre-dredge bathymetry survey results.
- On July 23, CPG provided EPA with the bathymetric survey results.
- On July 23, CPG notified Essex, Hudson and Bergen Counties about its mobilization plans for July 29-30.
- On July 23, CPG notified the Bergen County and Township of Lyndhurst Parks Departments about the scheduled installation of air monitoring equipment in the Park.
- On July 24, CPG agreed to a plan with Essex, Hudson and Bergen Counties to reimburse their bridge operators for overtime to support the required bridge openings.
- On July 25, EPA recommended to CPG revisions to the air monitoring equipment and layout.
- On July 26, JCMUA sent a letter which established their required dredging offsets in response to the CH2M Hill's June 18 2013 letter.
- On July 26, CPG provided EPA with final operation plans, an updated project schedule, the updated Notice to Mariners for the Removal Action, and an updated contact list for all project team members.
- On July 26, CPG submitted maps showing the new locations for air monitoring equipment agreed to with EPA.
- On July 26, CPG informed EPA that the BSB motors had not yet been shipped from the manufacturing / repair facility.
- On July 29, CPG provided EPA and the local counties an initial schedule for bridge openings to support dredging and barge movements over the following 2 weeks.
- On July 29, CPG provided EPA the correlation between Dundee Dam flow and RM 10.9 water velocity as well as its relationship to silt curtain effectiveness, and suggested changes to monitoring requirements in the Water Quality Monitoring Plan (WQMP).
- On July 29, CPG forwarded JCMUA's July 26, 2013 letter to EPA.
- On July 30, EPA finalized its recommendations for trigger and action values in the Water Quality Monitoring Plan.
- On July 31, CPG provided EPA with mock-ups of the environmental monitoring reports it proposes to issue weekly on www.rm109.com.

- On July 31, EPA described for EPA the WQMP sample naming convention.
- On July 31, CPG uploaded to EPA SharePoint site revised Final Design documents.
- On July 31, the CPG responded to the EPA's July 15 denial of Force Majeure.

Work

- On July 1, CPG contractors performed a navigational survey of the Passaic River to evaluate potential obstructions to navigation.
- CPG ordered capping materials on July 3.
- CPG investigated and documented contingency options for how to implement the Removal Action should BSB remain inoperable.
- From July 12-14, CPG performed the pre-dredge bathymetric survey of the Removal Area.
- On July 17, CPG contractors supplemented the bathymetric survey with a topographic survey of near-shore areas in the Removal Area.
- On July 19, CPG witnessed a test opening of the BSB.
- In July, electric outlets were provided in Riverside Park in Lyndhurst to support the air monitoring equipment.
- Throughout July, CPG offered assistance and resources to Hudson and Essex Counties to expedite the repair and shipment of the BSB motors.
- CPG considered the need for traffic control plans to support a potential multi-hour opening of BSB.
- Schedules for barge and tug movements were developed to support mobilization and the beginning of dredging operations.
- Bridge opening schedules were modified to minimize disruption to traffic flow around special events in Newark and Harrison.
- Air monitoring equipment was deployed in the Township and County Parks and pre-dredge baseline samples began to be collected.
- Equipment was mobilized to Removal Area from the late evening of July 29 into the early morning hours of July 30.
- On July 29, CPG finalized plans to provide funds to the Counties for staff overtime to support nighttime and weekend openings of the bridges on the Passaic River.
- On July 30, CPG reached an agreement with the Bergen County Park police to coordinate and provide overnight security services in Riverside County Park.
- On July 30, CPG installed signs in Riverside County Park describing the Removal Action.

(b) Results of Sampling and Tests

- On July 1, CPG provided EPA all of the turbidity data collected by the monitoring buoys during the June pre-dredge water quality survey.
- On July 15, CPG provided EPA the data used to develop Turbidity : SSC correlations.

(c) Work planned for the next two months with schedules relating to the overall project schedule for design completion and construction

- CPG will issue and post the Final Design upon acceptance by EPA.
- Dredging, stabilization and disposal will begin.
- CPG will implement the approved WQMP and PAMP.
- CPG will review monitoring results obtained via the WQMP and PAMP and recommend modifications to the plans that may include reduced frequency of sampling and reduction in analytes based on the data.
- CPG will respond to anticipated comments on the draft LTMMP and submit a revised plan for EPA review and approval.
- CPG will provide regular and as-needed updates to river users about barge movements and other important project milestones.
- CPG will continue to monitor bridge operability issues, track the shipment and installation of new motors at BSB, and work to facilitate the Removal Actions.
- CPG will, pending EPA's final approval of the Final Design and receipt of the required State permit equivalents:
    - begin dredging operations;
    - begin stabilization activities at the Clean Earth Kearny facility;
    - transport decant water for treatment from the Clean Earth Kearny facility to the Clean Harbors Baltimore facility;
    - transport and dispose of stabilized sediment in the Clean Harbors Waynoka OK landfill;
    - following EPA acceptance of the dredged footprint; begin transport of cap material by barge from South Amboy to the RM 10.9 Removal Area and begin laying the cap.

(d) Problems encountered and anticipated problems, actual or anticipated delays, and solutions developed and implemented to address actual or anticipated problems or delays

- There is still no resolution concerning the Tierra/Maxus/Occidental (TMO) UAO and their participation in the RM 10.9 Removal Action. As documented in CPG's correspondence of July 27, 2012 and September 7, 2012, the offer from TMO was inadequate and provided no meaningful value to the RM 10.9 Removal Action.
- In prior months, NJDEP questioned changes in flood potential associated with the RM 10.9 cap, as well as CPG's ability to manage re-suspension of sediment in accordance with NJ regulations. NJDEP has stated that it will not issue a final WDP equivalent until these questions are resolved. CPG utilized the EPA-approved Delft3D model for the RM10.9 Removal Area and clearly demonstrated to the NJDEP that there will be no significant changes in RM 10.9 Removal Area surface roughness and that any change to surface roughness will have negligible impacts on upstream and downstream flood potential. CPG also provided NJDEP additional details on its marine contractor's

planned silt curtain implementation and discussed how it will provide satisfactory controls on re-suspension. Because there have been no questions from NJDEP on these matters since CPG's May 22 submittal, and because by the end of June more than the 20 business days that NJDEP indicated was necessary to review those submittals has passed, CPG believes that the provided information fulfilled most conditions for approval raised by NJDEP. The last condition stated by NJDEP for approval of the Waterfront Development Permit equivalent is EPA approval of the Final Design Report.

- The inoperability of the Bridge Street Bridge due to Hurricane Sandy damage delayed the start of the Removal Action because equipment could not be mobilized up river until that bridge was operational. CPG informed EPA of a Force Majeure condition by phone on June 24 and in writing on June 29 as required by the AOC. CPG and its contractors have worked with the Counties to continue to resolve the BSB operational issues and have agreed to provide funds to the three counties to support operator overtime. The CPG continues to monitor the operability of all bridges, and will inform EPA as new information becomes available or the situation changes.
- The CPG strongly disagrees with the EPA's July 15 letter denying the Force Majeure condition outlined in CPG's June 29, 2013. EPA's rationale for denial is inconsistent with terms and definitions in the AOC. Both the inoperability of the Bridge Street Bridge due to Hurricane Sandy and the repeated delays in the repaired motors being shipped and reinstalled - have been and continue to be clearly beyond the control of the CPG. Moreover, Hudson and Essex Counties have failed to meet their obligations under Federal Regulations to properly maintain and operate their bridges and to provide proper notice of the status of their bridges to US Coast Guard, mariners and the general public. Finally, the CPG is voluntarily providing funds to the Counties to operate the bridges with no regulatory requirement to do so. As noted above it is the Counties obligation to ensure that their bridges are operating and ready to open upon notice. The CPG has addressed this issue in its July 31 letter to EPA.

If you have any questions, please contact Bill Potter, Rob Law or me at (908) 735-9315.

Very truly yours,

de maximis, inc.

Stan Kaczmarek / cfc

Stan Kaczmarek, PE
RM 10.9 Removal Action Project Coordinator

cc: Pat Hick, EPA Office of Regional Counsel
William Hyatt, CPG Coordinating Counsel
Jay Nickerson, NJDEP
Roger McCready, CH2M Hill

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