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February 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. 5 – January 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 January, 2013.

Meetings/Conference Calls

- On January 4, dredging and marine contractors interested in bidding on the RM 10.9 Removal Action project participated in site walk conducted by CPG to review the removal area from the Bergen Co. Riverside Park and Lyndhurst's Recreation Area.
- On January 4, CPG and EPA held a conference call to discuss EPA's initial comments on RM 10.9 Characterization QAPP Addendum D (QAPP Addendum D).
- On January 7, CPG participated in a conference call with Cashman, Stuyvesant and Trinity Consultants to understand Cashman's plans for applying to NJDEP to obtain both Air permit and Acceptable Use Determination (AUD) to cover their stabilization process.
- On January 8, CPG participated in a conference call with Clean Earth to understand Clean Earth's plans for applying to NJDEP to obtain both Air and AUD permit equivalents to cover their stabilization process.
- On January 10, CPG met with the Lyndhurst's Recreation Commissioner to discuss Removal Action design changes that eliminate any need for utilization of Lyndhurst property.
- On January 15, CPG and EPA met with Lyndhurst officials to discuss the Removal Action design and Lyndhurst concerns.
- On January 16, CPG and EPA held a conference call to discuss proposed responses to EPA and DEP comments on QAPP Addendum D.

- On January 17, CPG presented an overview of the RM 10.9 Removal Action to the LPR Community Advisory Group at a meeting in Lyndhurst.
- On January 23, CPG discussed with NJDEP the process used to evaluate applications for a Tideland license.
- On January 28, Clean Earth discussed with CPG their initial calculations that indicate that the RM 10.9 sediment can be processed within limits established by their current Air Permit from NJDEP.
- On January 30, CPG and EPA held a teleconference to discuss EPA and NJDEP comments on the Pre-Final Design Report as well as CPG's proposed responses.
- On January 30, Cashman reviewed with CPG their initial air emission calculations that indicate that the RM 10.9 sediment is likely to be able to be processed within limits established by their current NJDEP Air Permit, but that they are also likely to request a Permit Amendment to add mechanical sediment dewatering as a permitted technology.

Correspondence

- On January 4, NJDEP submitted a request to CPG for a revised Potential to Emit (PTE) analysis from dredging operations, adding calculations for any detected pesticides and herbicides and explaining the basis for previously submitted data on H_2S.
- On January 8, EPA provided CPG with EPA's written comments on QAPP Addendum D, plus EPA's and NJDEP's written comments on the Pre-Final RM 10.9 Removal Action Design Report.
- On January 14, EPA provided NJDEP's written comments on QAPP Addendum D.
- On January 14, CPG provided NJDEP an updated dredging operation PTE analysis and explanation of how H_2S data was collected and analyzed in prior RI sediment sampling events.
- On January 15, Lyndhurst Twp sent a letter to EPA, copying CPG and summarizing agreements reached in a meeting between all parties that same day.
- On January 16, Lyndhurst Twp engineer indicated to CPG that they need to comply with NJ noise restrictions when working within the Township of Lyndhurst.
- On January 16, CPG provided EPA with draft responses to EPA comments on QAPP Addendum D.
- On January 16, CPG provided the Lyndhurst Twp engineer with details he requested in a January 15 meeting on the type of silt curtain system being specified for the RM 10.9 Removal Action.
- On January 17, CPG provided the Lyndhurst Twp a summary of the monitoring and operational controls that will be utilized during the RM 10.9 Removal Action to ensure minimal odor, noise and air pollution impacts on Lyndhurst.
- On January 17, CPG and NJDEP exchanged emails indicating that data provided on H_2S and PTE were adequate for NJDEP to make conclusions about odor potential and the absence of regulatory triggers during the RM 10.9 Removal Action.
- On January 18, CPG asked the Lyndhurst Twp engineer if they were aware who placed or who has claims on a steel cable that transects the Passaic River in the vicinity of the Township's storm water pump station.

- On January 21, CPG provided EPA with revised response to comments on QAPP Addendum D.
- On January 23, CPG requested to schedule a teleconference with NJDEP to discuss the permit equivalents application process.
- On January 25, CPG provided EPA with draft response to comments on the Pre-Final Design Report.
- On January 28, NJDEP recommended February 6 for a teleconference on the permit equivalents application process.
- On January 29, EPA provided CPG with additional comments submitted by NJDEP on QAPP Addendum D.
- On January 30, CPG received Contractor proposals for the dredging, stabilization and capping portion of implementation.
- On January 31, NJDEP indicated to CPG that listing CPG, an unincorporated association as intended license holder on the Waterfront Development and Tideland permits, would be acceptable and appropriate.

Work

- Drafted Waterfront Development, Dredging and Tidelands application packages.
- Addressed questions received from potential bidders to implement the RM 10.9 Removal Action.
- Responded to EPA and NJDEP comments on the Pre-Final RM 10.9 Removal Action Design Report and QAPP Addendum D.
- Continued planning and necessary subcontracting for sampling activities to be conducted in February 2013 following EPA approval of QAPP Addendum D.
- Continued preparation of draft Final RM 10.9 Removal Action Design including the Community HASP and air monitoring plan.

(b) Results of Sampling and Tests

- No sampling or analytical data were obtained or submitted in December 2012.

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

- Conduct sampling activities associated with QAPP Addendum D.
- Submit applications to NJDEP for permit equivalents (Air, Dredging License, Waterfront Development and Tidelands Commission) for the dredging and capping operation.
- Notify upland property owners and agencies about CPG's permit applications and licenses to dredge the RM 10.9 Removal Action sediment.

- Continue working with potential stabilization vendors to assist them in air and AUD permit applications for managing RM 10.9 sediment.
- Coordinate with NJDEP on involvement of FWS and NJ SHPO in permitting efforts.

- Complete and submit the Final RM 10.9 Removal Action Design Report to EPA pending resolution of comments with EPA and NJDEP on the Pre-Final Design Report.
- Develop and submit a QAPP addendum for water quality monitoring during dredge and capping operations.
- Develop and submit a Long Term Maintenance and Interim Monitoring Plan for the RM 10.9 cap.
- Submit stabilization bench-scale testing plans from stabilization vendors to NJDEP and initiate testing upon NJDEP approval.
- Evaluate vendor bids received for implementing the RM 10.9 Removal Action.
- Discuss with Passaic River boat clubs and the Lyndhurst Fire Department how the RM 10.9 Removal Action will be implemented and how to minimize impacts on their respective uses of the River.

(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 and September 7, the offer from TMO was inadequate and provided no meaningful value to the RM 10.9 Removal Action. It is understanding that Region 2 met with TMO in January to discuss its intention for addressing the RM 10.9 Removal Action UAO.

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, 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