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February 18, 2014 ***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. 17 – January 2014
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, 2014.

Meetings/Conference Calls

- On January 9, EPA and CPG held a teleconference to review progress in capping.
- On January 15, EPA and CPG held a teleconference to review progress in capping.
- On January 28, EPA and CPG held a teleconference to review progress in capping.

Correspondence

- On January 2, 3, 4, 5, 6, 7, 8, 17 and 20, CPG informed the counties and all bridge operators of its requests (and modifications to those requests) for bridge openings.
- On January 4, Amtrak notified CPG that it would not be able to support the bridge opening requested for that day due to frozen mechanical devices and excessive ice build-up on the spans.
- On January 4, Essex County informed CPG that it would not be able to open bridges on January 5 because of the weather.
- On January 4, CPG filed a Mariners Complaint with the US Coast Guard regarding Essex County's refusal to support additional bridge openings.
- On January 6, Essex County notified the CPG that Bridge Street Bridge was not able to be opened at the scheduled 1 AM time, and that potential electrical or mechanical causes would be investigated later that morning.

- On January 6, CPG submitted to EPA a technical memorandum concluding that the new fabric proposed for the armoring layer was in accordance with the approved Final Design Report specifications, and also updated EPA with a near term, anticipated schedule of field activities.
- On January 6, Amtrak issued a system wide shut down of all moveable bridges including those that span the Lower Passaic River until the extreme cold weather was over.
- On January 7, EPA requested that CPG schedule a teleconference to discuss project status.
- On January 10, CPG issued to EPA a summary of their January 9 teleconference.
- On January 13, CPG submitted for EPA review Version 9 of the Capping Plan.
- On January 19, CPG forwarded to EPA the anticipated schedule of field activity for that week.
- On January 20, CPG forwarded to EPA a technical memorandum titled "Alternate Geotextile Fabric Placement Method."
- On January 20, CPG was notified that the Amtrak Dock Bridge failed to open during the downriver transit of CPG equipment. Later that day Amtrak informed CPG that the bridge was repaired, allowing CPG equipment to continue its downriver transit at the next high tide.
- On January 20, CPG provided EPA with a summary of their January 15, 2014 teleconference.
- On January 21, CPG informed EPA that a worker on the capping barge had been injured, was being transported to the hospital, and would require hospitalization.
- On January 21, CPG notified EPA that there would be a safety stand-down on January 22.
- On January 21, EPA inquired as to the status of QAPP Worksheet 9 covering their December 19 meeting with CPG to discuss the long term operations, maintenance and monitoring plan for the RM 10.9 cap.
- On January 22, CPG provided to EPA the requested QAPP Worksheet 9.
- On January 22, EPA inquired and CPG provided a status report on the injured worker.
- On January 22 and 23, CPG notified EPA that resumption of field work would be delayed because of ice buildup on the river.
- On January 23, CPG submitted a weekly status report to EPA.
- On January 24, CPG notified EPA that the delay in resumption of field work would extend at least another week.
- On January 27, CPG provided EPA with the agenda for their January 28 teleconference.
- On January 31, CPG notified EPA that field work would resume no earlier than February 10 due to ice buildup on the river.

Work

- In January, CPG installed and tested a new winching system for controlled movement of barges during the placement of geotextile fabric.

- On January 21, a worker on the barge was injured; he was transported to the hospital where he was admitted for treatment.
- On January 22, Great Lakes conducted a safety stand-down of all field operations.
- Completion of the armoring layer on the cap could not be completed in January due to a combination of bridge operating problems and weather impacts.

(b) Results of Sampling and Tests

- On January 21, CPG submitted to EPA a data package containing validated results associated with the RM 10.9 Removal Action Water Column Monitoring (Re-suspension Monitoring), Air Monitoring and Post-dredge sediment sampling activities.

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

- CPG will remove stone from previous armoring efforts on the RM 10.9 Removal Area.
- CPG will install geotextile and armoring stone in accordance with a revised Capping Plan.
- CPG will install a habitat layer on top of the armoring stone.
- CPG will continue to monitor turbidity during cap placement as long as required by EPA.
- CPG will implement sampling of water and/or air quality if community complaints or turbidity monitoring indicate that capping is a possible cause for environmental impacts.
- CPG will continue to 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.
- When capping operations are completed, CPG will demobilize from the RM 10.9 Removal Area.
- CPG will begin to draft a Final Report.

(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 the 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.
- The inoperability of the Bridge Street Bridge (BSB) due to Hurricane Sandy damage delayed the start of the RM 10.9 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 worked with the Counties to resolve the BSB operational issues and agreed to provide funds to the three counties to support operator overtime.

- 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 has voluntarily provided 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. CPG has addressed this issue in its July 31 letter to EPA.
- A significant mechanical failure that occurred on August 31 at BSB resulted in a second Force Majeure condition that prevented any barge movement from August 31 through September 18. The CPG provided initial notice to EPA's oversight contractor on August 31 and provided additional information on September 1 to the EPA. On September 5, the CPG submitted a Force Majeure letter regarding the possible impact of this bridge failure on Removal Action schedules, which was then updated on September 17. On September 3, the CPG notified the US Coast Guard of the situation and requested that the USCG use its authority to direct that the bridge be opened so that marine traffic can resume; the USCG would not compel the Counties to operate the BSB based on the Counties' initial concern about damage to the BSB. However, the Counties subsequently determined that the BSB could be opened without damage but demanded monetary compensation for bridge openings that they are required to provide upon receipt of proper and timely notice (without compensation) pursuant to federal regulations. The CPG reluctantly agreed to provide the compensation in order to complete the Removal Action. EPA and USCG have been reluctant and unwilling to utilize their enforcement and regulatory authority to compel the Counties to fulfill their obligation. The re-opening of BSB on September 18 allowed dredging to resume.
- Hudson County has notified the CPG that BSB will need to be taken out of service for what they now indicate is a 10 - 15 day period as soon as schedules allow, to allow replacement of a second shaft which the County's mechanical contractor indicates is now showing signs of being stressed. The CPG will continue to monitor this situation and notify Hudson County of its schedule so that repairs can be scheduled at a time that has minimum disruption on the capping schedule. However, if the second shaft suffers damage before that time, capping operations may be delayed if BSB is again taken out of service and the repair schedule prevents it from even being opened with winches.
- Both tidal and river flow are complicating the placement of geotextile fabric and armoring stone on top of the Active Layer. CPG has identified proposed alternate approaches in a revised Capping Plan to keep the fabric taut while armor stone is placed on top. The revised Capping Plan identifies a new anticipated completion date for field work in March or April, 2014. If conditions warrant, additional alternative methods may still need to be identified and implemented in order to avoid further delays in the schedule.

- Very low temperatures and extended periods of extreme winter weather have impacted the operability of bridges that span the Lower Passaic River and have at times iced-in some of the support vessels restricting equipment transport and movement. Additional periods of severe winter weather could result in additional delays in completing the Removal Action.

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

Stan Kaczmarek, PE
RM 10.9 Removal Action Project Coordinator

cc: Pat Hick, EPA Office of Regional Counsel
William Hyatt, CPG Coordinating Counsel
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