To: Vaughn, Stephanie[Vaughn.Stephanie@epa.gov]
Cc: Willard Potter[otto@demaximis.com]
From: Robert Law
Sent: Thur 9/26/2013 12:19:49 AM
Subject: Re: RM 10.9, undercut areas....

Stephanie:

A sampling and probing plan for the hard-pan areas was forwarded to you earlier this afternoon.
A modified capping plan will be submitted to EPA for review on Thursday.
The CPG will do its utmost to meet EPA's information needs to make decisions regarding the RM 10.9 Removal Action.

Please contact Bill or me if you have any questions.

R/
Rob
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>>> "Vaughn, Stephanie" <Vaughn.Stephanie@epa.gov> 9/25/2013 4:55 PM >>>

Rob - this email is to document my disappointment and dissatisfaction upon learning that, despite my consistent reminders, the sampling plan related to the RM 10.9 undercut areas that I asked for a month ago was not going to be submitted until the end of the week. Dredging is expected to be complete by October 2. Submitting a plan which requires EPA review, then sampling, and then interpretation of results less than a week before the anticipated completion of dredging is unacceptable.

The chronology of events related to this issue is as follows:

•□□□□□□□□ On August 29, 2013 I was made aware of the undercuts in Area 1 in an email from Stan.

•□□□□□□□□ Stan and I discussed the issue, during which I conveyed the following: (i) sampling would be required in the undercut area to document what concentrations are still present at the dredge-cut surface, (ii) the extent of the underlying hard surface should be determined, and (iii) alternate means of dredging that could be used to address this area should be explored.

•□□□□□□□□ On August 30, 2013, I received another email from Stan stating that he wanted to discuss "approaches for sampling sand and/or sediments remaining in the undercut portions of the RM 10.9 Removal Area."

•□□□□□□□□ Later in the day on August 30, Stan sent another email stating that the CPG "will draft a sampling plan for this undercut area to identify the concentration of COPCs in the material remaining."

•□□□□□□□□ On September 4, I received an email from Stan stating that additional undercut areas were encountered north of the previous ones. These extended along the shore, all the way up to the no dredge zone.

•□□□□□□□□ Since this time, Stan and I (and you and I) have had numerous conversations about this issue. I have asked repeatedly for the sampling plan, and have stressed the importance of getting results ASAP so we can decide on a path forward. I have also requested numerous times that probing be conducted so that we can figure out how extensive of an issue this, particularly as we move northward and into the finger at the north end of the removal area.

•□□□□□□□□ Every week, I have been being told that a plan was forthcoming, any day now, but no such plan has yet been submitted.

•□□□□□□□□ As the situation currently stands, I do not know the extent of the hard surface in the undercut areas, whether they can be dredged using alternate means, or what would be left behind if we do not address these areas. Note that, despite what the emails convey, the undercut areas are not confined to the near-shore; some appear to approach the centerline of the channel.

•□□□□□□□□ I understand that the plan you intend to submit by the end of this week will focus on justifying that a thinner cap will be effective in these areas, prior to determining whether additional dredging attempts in all or some of these areas should be made.

•□□□□□□□□ Furthermore, I understand that this plan will not include additional sampling. This is not acceptable.

•□□□□□□□□ The AOC specifies that the action will remove approximately the top two feet of sediment. As such, not addressing these undercut areas would be a deviation from the AOC. In order to be acceptable, this deviation must be clearly documented and will have a high burden of proof for justification.

At this late time, I am asking you to expedite submittal of your plan as much as possible and assure that it includes sampling. Keep in mind that EPA has not made any determinations regarding the dredging required under the AOC.

Thanks,

Stephanie