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January 21, 2014

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Via Overnight Mail

Honorable Judith A. Enck
Regional Administrator
USEPA, Region 2
290 Broadway
New York, NY 10007-1866

RE: Lower Passaic River Study Area - Administrative Settlement Agreement and Order on Consent for Remedial Investigation/Feasibility Study, CERCLA Docket No. 02-2007-2009, Effective May 8, 2007

Dear Administrator Enck:

Thank you for meeting with representatives of the Lower Passaic River Study Area Cooperating Parties Group (CPG) on January 15, 2014. We appreciated your time and the opportunity to convey our views to you and your staff.

I want to take this opportunity to emphasize to you the key elements of our presentations:

- The CPG has been working constructively with your staff to come to a mutual understanding of the best pathway forward. We urge EPA to continue that dialogue.
- The Sustainable Remedy we presented is a starting point, using adaptive management, that will lead to real progress in the River in the shortest amount of time. Through the RI/FS process, and with EPA oversight, the CPG has developed a significant amount of information about the River. Based upon this information, we believe the Sustainable Remedy will meet risk reduction goals without the need for a massive dredging project that faces serious implementability issues in this urban setting.
- The CPG has undertaken an innovative pilot study of a fish exchange program, the goal of which is to show that immediate risk reduction can be accomplished while the remedial action for the River is being selected, designed and implemented; a process which will take a number of years. We urge EPA to support this pilot program.
- Finally, the CPG is only a small subset of potentially responsible parties and comprises the only entities that have stepped up. Meanwhile, the overwhelmingly predominant party at the site, Occidental Chemical Corp. (OCC),

is not participating with the CPG, despite the fact that it is a signatory to the 2007 RI/FS AOC. Furthermore, OCC has defied a unilateral administrative order issued by your office and has avoided implementing Phase 2 of the 2008 Removal AOC, pursuant to which it agreed to undertake major dredging and capping activities in the vicinity of its former Lister Avenue plant site. We urge EPA to use the full force of its enforcement authorities to compel OCC to fulfill its obligations.

As we have stated for years now, the CPG firmly believes that the FFS is inconsistent with the NCP. As a result, the CPG will not perform the FFS. The CPG believes that the Sustainable Remedy is fully consistent with the NCP and EPA guidance, and the CPG urges EPA to give that alternative remedy full consideration as it is an opportunity for progress instead of delay.

Sincerely,

William H. Hyatt, Jr.

cc: Eric Schaaf, Esq., Regional Counsel, USEPA Region 2 Office of Regional Counsel (via overnight mail)
Walter Mugdan, Director, USEPA Region 2 Emergency and Remedial Response Division (via overnight mail)
CPG Members (via electronic mail)

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