

June 19, 2012

By Electronic Mail and Overnight Courier

Ms. Amy R. Legare
Chair, National Remedy Review Board
U.S. Environmental Protection Agency
Potomac Yard South, Room 5828
2777 Crystal Drive
Arlington, VA 22202

Re: Gowanus Canal Superfund Site, Brooklyn, New York (Site)
Comments on Draft Remedial Investigation and Draft Feasibility Study

Dear Ms. Legare:

On behalf of the undersigned entities,¹ we are writing to comment on the Draft Remedial Investigation Report (RIR) dated January 2011, and the draft Feasibility Study (FS) dated December 2011, issued by Region II of the United States Environmental Protection Agency (USEPA) for the above-captioned Site.

The signatories to this letter agree with many of the comments and concerns expressed by USEPA's Contaminated Sediments Technical Advisory Group (CSTAG) in its January 30, 2012 Memorandum; by National Grid in its undated comments; by the Sediment Management Work Group (SMWG) in its May 29, 2012 letter; and by the New York City Department of Environmental Protection in its May 18, 2012 letter to Region II. In particular, we agree with the observations in the above-referenced submissions that Region II's proposed schedule calls for issuance of a Record of Decision (ROD) and the beginning of remedy implementation without (a) adequately studying the myriad, complex contamination pathways impacting the Site, (b) bringing under control major sources of continuing contamination, or (c) taking into account the impact of the remedial activities, including combined sewer overflow (CSO) upgrades, already underway at or planned for the Site.² The result is likely to be a remedy that is unnecessarily costly and disruptive but provides limited or no long term benefit to human health, the environment or the surrounding community.

¹ Each of these entities has been identified by USEPA as a Potentially Responsible Party (PRP) at the Site. They contend that their collective liability, if any, is, at most, *de minimis*, and are submitting this letter without admitting any such liability, without waiver of any kind, and with full reservation of any and all rights and defenses.

² Despite their agreement with many of the comments in these submissions, the signatories to this letter do not endorse or agree with all comments contained therein.

Our specific comments and concerns are as follows:

1. **Region II's Remedial Action Schedule Needs To Be Modified** – Region II's schedule, which calls for the issuance of a Proposed Remedial Action Plan in September 2012 and a ROD in March 2013, is overly ambitious and premature in light of the complexity of the Gowanus Canal system. The overall project schedule needs to be revised for both technical and regulatory reasons.

USEPA's guidance for the Superfund remedial action process, and its guidance for sediment sites in particular (e.g., Contaminated Sediment Remediation Guidance for Hazardous Waste Sites, USEPA, 2005) require a complete understanding of both the contaminant sources and the interrelationship of the groundwater, surface water, canal sediment and CSO pathways. As demonstrated in detail in CSTAG's, National Grid's, SMWG's and the City's comments, there remain major data gaps that must be addressed before such an understanding can be achieved. The implementation start date needs to be similarly delayed to ensure that the overall remedial sequence takes into account the pending remediation of adjacent Manufactured Gas Plant (MGP) sites, CSOs and bulkhead replacement, each of which will have a significant impact on the Site.

2. **Region II Must Develop a Conceptual Site Model That More Fully Defines All Current and Future Exposure Pathways** – The groundwater and CSO pathways are not well understood; therefore, the current and future impacts on the Site from these continuing sources have not been adequately evaluated. In part, this is because delineation of contamination at and remedial plans for the MGP sites are still being developed, and the City's plans for addressing the CSOs are not currently known. Without this information, an appropriate remedy for the Site cannot be selected or implemented.

Gathering more information about the planned remediation of the MGP sites and the CSO modifications is critical to selecting an appropriate remedy for the Canal. Additional studies and modeling are necessary to characterize the flux of contaminants of potential concern from, inter alia, the MGP sites and the CSOs. Without the supporting technical studies, it is impossible to know with any certainty how much sediment should be or can be effectively removed, or what cap design is appropriate. Moreover, without this information, the long term effectiveness (a major criterion for evaluating remedial alternatives under Superfund) of any sediment remedy cannot be determined.

3. **Continuing Contamination from MGP Sites Needs To Be Eliminated or Controlled Prior to the Selection and Implementation of a Remedy** – The remedy selection and implementation process needs to be phased to address the MGP sites prior to the selection and implementation of a Canal sediment remedy. Without this coordination, any remedial action would be temporary and have no

long term effectiveness, as the Site will certainly become recontaminated by these continuing sources.

4. **The Impact of Bulkhead Replacements and Upgrades Needs To Be Fully Evaluated Prior to Remedy Selection and Implementation** – The FS concludes, and Region II's response to CSTAG acknowledges, that existing bulkheads along much of the Canal are degraded and will have to be stabilized, reinforced or replaced. However, neither document specifies which bulkheads need to be addressed. More importantly, the FS does not explain how the sediment remedy would deal with new releases of contaminants from behind the bulkheads that may occur if the sediment remedy were implemented before bulkhead replacement or repair. We agree with CSTAG that the bulkhead replacement/upgrade evaluation should be performed as part of the FS, and not the design phase of the remedy, because it represents a component critical to the selection of an appropriate remedy.
5. **The FS Needs To Evaluate the Impact of the Flushing Tunnel on Future Movement of Canal Sediment** – The FS does not evaluate the flux of sediment across the downstream end of the Flushing Tunnel when it is reactivated. The Flushing Tunnel, which has been shut down since 2010 for upgrades, is a significant source of sediments in the Canal. Additionally, the FS does not model the impacts of an operational Flushing Tunnel on current flow velocities and the associated scouring and remobilization of sediment. These issues are critical to the long term success of a Canal cleanup and must be addressed prior to remedy selection.
6. **The FS and Remedy Selection Should Emphasize Capping Over Dredging, and Include Monitored Natural Attenuation** – The FS remedial alternatives (other than the no-action alternative) retained for further consideration emphasize dredging over capping. Specifically, FS Alternatives 5 and 7 involve dredging all non-native, soft sediment from the Canal, followed by placement of a cap on the remaining native material. This approach entails the removal of over 500,000 cubic yards of sediment, extending in some locations to depths greater than 20 feet below the bed of the Canal.

We agree with CSTAG that the FS should emphasize capping over dredging, consistent with USEPA sediment guidance, because the deeper sediments are more contaminated; because the extensive debris in the Canal will make dredging extremely difficult, complex, time-consuming and costly undertaking; and because capping may be just as likely to accomplish remedial objectives. Furthermore, even if it were appropriate to dredge portions of the soft sediment, Region II should consider CSTAG's suggestion of capping the soft sediment in reaches of the Canal where minimum navigational depths are not an issue.

We urge USEPA to give this process the time it deserves. There exists no sound justification for rushing to decide on, and implementing, a remedy in the absence of

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adequate studies, a better understanding of current and future exposure pathways, and a phased approach which prioritizes measures to address major sources of continuing contamination. A more realistic schedule is warranted, and in the public interest, if it will assist in arriving at a cleanup plan that is, over the long term, more fully protective of public health and the environment.

Respectfully submitted,³

CBS Corporation

Citigroup, Inc./MRC Holdings, Inc.

Consolidated Edison Company of New York, Inc.

The Dun and Bradstreet Corporation

Exxon Mobil Oil Corporation

Hauck Manufacturing Company

Hess Corporation

MCIZ Corp.

Patterson Fuel Oil Company, Inc.

Rexam Beverage Can Company

SPX Corporation as successor to O-Z/Gedney Co., Inc.

Stauffer Management Company, LLC

Union Oil Company of California

Verizon New York Inc.

³ Signatories are listed in alphabetical order.