616273

de maximis, inc.

186 Center Street
Suite 290
Clinton, NJ 08809
(908) 735-9315
(908) 735-2132 FAX

May 15, 2014

VIA ELECTRONIC & US MAIL

Ms. Jennifer LaPoma
ATTN: Lower Passaic River Remedial Project Manager
Emergency and Remedial Response Division
U.S. EPA, Region 2
290 Broadway, 20th Floor
New York, New York 10007

Re: Monthly Progress Report No. 20 – April 2014
Lower Passaic River Study Area (LPRSA)
River Mile 10.9 Removal Action
CERCLA Docket No. 02-2012-2015

Dear Ms. LaPoma:

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 April, 2014.

Meetings/Conference Calls

- On April 2, EPA and CPG held a teleconference to review progress in capping.
- On April 9, EPA and CPG held a teleconference to review progress in capping.
- On April 16, EPA and CPG held a teleconference to review progress in capping.
- On April 23, EPA and CPG held a teleconference to review progress in capping.
- On April 30, EPA and CPG held a teleconference to review progress in capping.

Correspondence

- On April 5, 11, 14, 16, 22 and 28, CPG informed the counties and all bridge operators of its requests (and modifications to those requests) for bridge openings.
- On April 1, 8, 15, 22, and 29, CPG forwarded the following to EPA: (1) summaries of the prior week's teleconferences; (2) status reports of the prior weeks' field operations, and (3) draft agendas for the weekly teleconferences.
- On April 7, EPA requested the CPG draft a technical memorandum to clarify how the panel failure occurred at panel N-39 and how such failures would be prevented during future attempts to install panels N-37, N-38, N-39.
- On April 9, the CPG requested permission to start capping south of the no dredge zone.

- On April 10, EPA granted permission to start capping south of the no dredge zone.
- On April 14, the CPG provided EPA with technical memorandum explaining the failure of panel N-39 and preventative measures that would be used for panels N-37, N-38, and N-39.
- On April 15, CPG provided the RM 10.9 Removal Action Progress Report for March 2014.
- On April 16, EPA sent the CPG a letter requesting daily updates of schedule and sample collection activities.
- On April 16 and 23, EPA approved posting of weekly status reports for the www.rm109.com website.
- On April 17, CPG responded to the April 16 EPA letter. The CPG believes that it has effectively communicated with EPA/CDM and will continue to provide the most updated schedules as soon as they are available.
- On April 17, EPA acknowledged receipt of the April 14 Technical Memorandum explaining the failure of panel N-39. EPA requested additional cross sections, calculations and clarification related to survey submittal dates.
- On April 21, CPG responded to EPA's April 17 request for additional information related to the technical memorandum explaining the failure of panel N-39.
- On April 23, CPG informed EPA that after completion of panel S-1, GLDD will relocate equipment to the area adjacent to panel N-39. GLDD plans to add 2-3" of AquaGate in the center of panel N-39 and collect a core. After successful completion of the core, GLDD will proceed to install the remaining fabric panels as outlined in the April 14th technical memorandum.
- On April 23, EPA granted approval to proceed with the installation of panels N-37, N-38, and N-39 in accordance with the Technical Memorandum. EPA had one clarification to the Technical Memorandum; on page 17 of the PDF the figure for 30+70 had an arrow that was mistakenly pointing to the wrong line.
- On April 29, Essex County notified CPG that the Jackson Street Bridge was inoperable and that a contractor was evaluating needed repairs and schedule.
- On April 30, EPA requested minor comments related to the www.rm109.com report. Changes to the report included removal of a statement that the habitat layer was the final of the RM10.9 project. CPG provided a revised version that was approved by EPA for posting.
- Throughout April, CPG kept EPA's On-Scene Coordinator and the CDM field oversight personnel informed of daily progress and daily modifications to the field placement schedule.

Work

- Fabric panels and armor stone were installed, the following is a list of panels installed in April: N-0, N00, N000, S1-S31, N39, N38, and N37 (37 panels total).

- Armor stone was removed on April 2 from the area just south of the no dredge zone. The stone was originally placed during the initial deployment south of the no dredge zone.
- The impact of tidal currents on geotextile placement led CPG to design and begin construction of a new shroud to encase and hold fabric rigid while it is being deployed to prevent the fabric from being lifted up and displaced by strong tidal currents. The shroud was installed starting on April 2 and was first used on April 8.

(b) Results of Sampling and Tests

- No data packages associated with the RM 10.9 Removal Action were submitted in April.

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

- 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, safety concerns, 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 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

- On April 29 Essex County notified the CPG that the Jackson Street Bridge was inoperable and that they had a contractor evaluating the problem. This constitutes a Force Majeure pursuant to the AOC and, as with previous bridge failures, these events are clearly beyond the control of the CPG to remedy. The Jackson Street Bridge was not repaired prior to the end of April.
- Both tidal and river flow continue to complicate the placement of geotextile and armoring stone on top of the Active Layer. The anticipated completion date for field work was May 12, 2014 prior to the mechanical failure of the Jackson Street Bridge on April 29, 2014; a revised completion date will be provided when Essex County provides a schedule and estimated date that the bridge will return to service.
- The CPG believes that only physical monitoring is sufficient and required to monitor the effectiveness and integrity of the cap. If the RM 10.9 cap is similar and consistent to that implemented as any final remedy for the LPRSA, then the need for long-term chemical monitoring for the cap should be determined as part of the overall LPRSA long-term monitoring plan and regular 5 year reviews. This appears to be the rationale developed

for the Hudson River and Onondaga Lake and should apply to the RM 10.9 Removal Action as well.

The RM 10.9 Removal Action was implemented to reduce the risk associated with the direct contact exposure to sediments by people due to elevated concentrations of COPCs in RM 10.9 surface sediments. The cap physically prevents direct contact to underlying sediment by river users. As an added benefit an active layer was included to further enhance the protectiveness of the cap. In the near term, the surface of the cap is likely to be recontaminated by sediment deposition which is likely to be in the low 100s of ppt of TCDD – two orders of magnitude less than the pre-dredge surface of the RM 10.9 Removal Area. The CPG does not agree with Region 2's rationale for an aggressive short-term chemical monitoring program of the RM 10.9 cap. It is unnecessary to evaluate the short-term effectiveness of the cap to chemically isolate COPCs when the primary goal of the Removal Action and the construction of the cap were to remove and reduce the direct contact risk due to the presence of elevated concentrations in the surface sediment.

On the Hudson River, Region 2 requires monitoring of the Phase 2 engineered caps for physical integrity and chemical isolation effectiveness. The chemical isolation effectiveness monitoring will occur in designated sentinel areas 10 years after completion of cap construction in those areas and then at 10-year intervals, or as soon as practical after a flood event exceeding the design recurrence interval for those caps. For Onondaga Lake, long-term monitoring of the cap includes routine physical and chemical monitoring which is anticipated to occur 5, 10, 20, and 30 years after construction begins. For the Lower Passaic River Study Area, EPA has required no chemical monitoring at the Lister Avenue Phase 1 Removal Action site. Region 2's requirements for the RM 10.9 Removal Area are completely inconsistent with the chemical monitoring requirements for frequency and schedule established at other Region 2 capping sites such as the Hudson River and Onondaga Lake.

The CPG provided comments to Region 2 on March 31, 2014 in response to the Region's January 24, 2014 comments on CPG's draft QAPP Worksheet 9 (dated January 22, 2014).

- The CPG strongly disagrees with the EPA's July 15, 2013 letter denying the Force Majeure condition outlined in CPG's June 29, 2013 letter. 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 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, 2013 letter to EPA and to which the Region has not responded.

- 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.

If you have any questions, please contact Bill Potter, Rob Law or me at (908) 735-9315.

Very truly yours,

de maximis, inc.

John A. Rolfe / cfc

John A. Rolfe
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
Frank Tsang, CDM-Smith
Elizabeth Franklin, US Army Corps of Engineers