

# BakerHostetler

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October 6, 2017

*Via Certified Mail, Return Receipt Requested  
and Electronic Mail [r6 San Jacinto Waste Pits Comments@epa.gov](mailto:r6_San_Jacinto_Waste_Pits_Comments@epa.gov)  
and [Miller.garyg@Epa.gov](mailto:Miller.garyg@Epa.gov)*

Gary Miller, Remedial Project Manager  
United States Environmental Protection Agency  
Region 6 (6SF-RA)  
1445 Ross Avenue  
Dallas, TX 75202-2733

Re: Supplemental Comments of International Paper Company and McGinnes  
Industrial Maintenance Corporation on the Proposed Remedial Action Plan for the  
San Jacinto River Waste Pits Superfund Site (Site)

Dear Mr. Miller:

This letter is submitted on behalf of International Paper Company and McGinnes Industrial Maintenance Corporation, Respondents at the above-referenced Site, to supplement their comments on the Proposed Remedial Action Plan (PRAP) for the Site developed by the United States Environmental Protection Agency (USEPA) Region 6.

The following documents are transmitted under cover of this letter:

1. A report by Michael R. Palermo, Ph.D., P.E., entitled, "Supplemental Comments on U.S. Environmental Protection Agency Region 6 Proposed Remedial Action Plan for the San Jacinto Waste Pits Superfund Site Considering Hurricane Harvey." In this report, Dr. Palermo, a 36-year veteran of the U.S. Army Corps of Engineers (USACE) and lead author of several of USEPA's leading guidance documents on subaqueous capping and contaminated sediment remediation, opines that the performance of the existing Time Critical Removal Action (TCRA) Armored Cap at the Site in the face of the definitive ultra-extreme storm event occasioned by Hurricane Harvey demonstrates, with a very high degree of

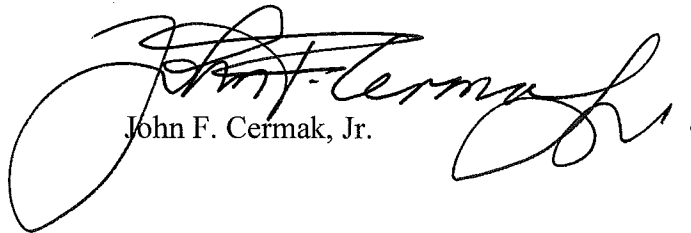
certainty, that the Alternative 3aN enhanced cap will be effective and provide long-term stability against any such future ultra-extreme event.

2. A report by E. Douglas Shields, Ph.D., P.E., E.WRE, entitled "A Supplemental Report Issued Following Hurricane Harvey - Examination of Selected Assertions by U.S. EPA in the Proposed Remedial Action Plan for the San Jacinto River Waste Pits Superfund Site." In his report, Dr. Shields, a 34-year USACE veteran and hydraulic engineer, addresses Region 6's concerns about geomorphology and concludes that despite the unprecedented nature of the flows associated with Hurricane Harvey, no major bank erosion was noted, severe erosion and deposition were limited to regions of the San Jacinto River distant from the TCRA Armored Cap and no impacts on the Southern Impoundment were noted.
3. A Memorandum dated October 5, 2017, prepared by Anchor QEA, setting out the results of a hindcast modeling simulation of Hurricane Harvey and demonstrating that an enhanced armored cap, as described in Alternative 3aN of the PRAP, would provide a factor of safety of 2 to 7 and long-term protectiveness and stability at the Site; and
4. A memorandum from Respondents dated October 6, 2017 (Memorandum) addressing an October 2, 2017 USEPA Region 6 Memorandum to the National Remedy Review Board regarding the Site. Among other things, this Memorandum points out that Region 6's memorandum lacks transparency in that it (i) fails to even mention the enhanced cap (Alternative 3aN) as a possible remedial alternative at the Site, (ii) presents risk assessment results on the basis of pre-TCRA conditions without acknowledging the construction of the TCRA Armored Cap at the Site, (iii) fails to mention that Region 6's preferred remedy will require removal of the functioning TCRA Armored Cap which has successfully prevented releases to the San Jacinto River based on actual sampling data, and (iv) continues to provide no details on how the preferred remedy will be implemented without causing significant releases to the San Jacinto River, as predicted by USACE in its August 2016 Report.

This letter and the enclosed reports and memoranda are based either on an event (Hurricane Harvey) that occurred after the close of the public comment period on the PRAP or on a document, the October 2, 2017 USEPA Region 6 Memorandum, that was submitted to the National Remedy Review Board following the close of the comment period. As such, this submittal presents information (i) that is not contained elsewhere in the administrative record, (ii) that could not have been submitted during the comment period, and (iii) supports the need to significantly alter the remedial action proposed for the Site. Therefore, this submittal meets the requirements of 40 CFR §300.825(c) for consideration by USEPA as supplemental comments on the PRAP.

Your careful evaluation of this additional information is appreciated.

Sincerely,



John F. Cermak, Jr.

Enclosures

cc: The Honorable Scott Pruitt, EPA Administrator (via email) (with encls.)  
Albert Kelley, Senior Advisor, EPA Headquarters (via email) (with encls.)  
James E. Woolford, EPA Headquarters (via email) (with encls.)  
Dana Stalcup, EPA Headquarters (via email) (with encls.)  
Douglas Ammon, Chair, NRRB (via email) (with encls.)  
Samuel J Coleman, EPA Region 6 (via email) (with encls.)  
Carl E. Edlund, EPA Region 6 (via email) (with encls.)  
Carlos Sanchez, EPA Region 6 (via email) (with encls.)  
Anne Foster, EPA Region 6 (via email) (with encls.)  
David Keith, Anchor QEA (via email) (with encls.)  
Albert R. Axe, Jr., Winstead (via email) (with encls.)