



Army Corps' report for August 15, 2017.

1. Summary of conditions and remediation efforts:
 - a. Condition of Basins – The 13 photos (see the first attachment) from this morning do not show any standing water in the basins. It rained in Margate today after the 13 photos were taken. The second attachment is a photo from the basin area at Andover, taken while it was raining. The Corps employee who took that photo reports that the water flowed to a low point, percolated and did not make it to the toe of the dune. The third attachment is a photo showing a truck spreading sand in a basin today. For at least the last three days, Walters (subcontractor) has been placing additional sand in some of the basins in preparation for the possible implementation of a point sump system, which would involve, among other things, the installation of pipes under the dune to facilitate the drainage of the basin areas by carrying water to the ocean side of the dune. Today Walters graded basins between Fredericksburg and Argyle and moved sand into the basin between Argyle and Brunswick. Also, the basin between Argyle and Brunswick was scarified with a power-rake tiller before Walters spread the sand.
 - b. Fencing – The Corps, through its own employees and Walters (subcontractor), completed the fence installation covered by item 2 of the Order by Saturday morning, August 12, 2017. When mitigation work is done on the basin areas, the fencing may need to be removed temporarily. But, as soon as possible after that work is completed, the fencing will be replaced. When the Project work resumes on the next 1000 foot section, fencing will be installed around the actively-working areas.
 - c. Water Quality Testing – The Corps is ready to commence water quality testing in accordance with item 3 of the Order, however, none of the ponding areas fit within the parameters for required testing. That is, at present, the basins do not contain ponding of 2 inches or more in depth that has sat for more than 24 hours without percolating.
 - d. Pumping – Walters (subcontractor) stands ready to pump, as quickly as possible, any ponded water levels that reach 4 inches in depth, in compliance with item 4 of the Order.
 - e. Excavation – In an attempt to comply with item 5 of the Order, requiring the removal of any sludge layer existing as a result of ponding that did not percolate within 36 hours, the Corps has worked with Margate to fulfill the intent of item 5 by scarifying/raking the basins and then covering the area with clean sand. The Corps understands that this practice will neutralize any sludge layer, to the extent one was present, and is consistent with NJDEP's best management practices. While the top layer of material/sand left after water recedes has been described as a sludge layer, the Corps is not sure this is properly described as sludge and may be sand with algae. In any event, whether or not it is sludge or sand with algae, the Corps believes that the scarifying/raking of the basins, which broke up that top layer, and the mixing of that broken up layer with clean sand, complies with the intent of item 5 of the Order and properly remediated/addressed any health concerns about that layer.

- f. Elevated Walkway – In an effort to comply with item 6 of the Order – which requires the Corps to construct elevated walkways, where feasible, and maintain existing elevated walkways across the basins on the beach to minimize fencing, facilitate safe beach access, and avoid contact with standing water and/or sludge – the Corps has completed its construction of elevated walkways, using built up sand, and is maintaining the existing elevated walkways. In the status conference of August 14, 2017, the Court directed the Corps to provide ADA compliant walkways at reasonable intervals. As soon as possible, the Corps will undertake making at least some of the walkways ADA compliant. The Corps is looking into which walkways are within ADA compliance and which are not. Also, the Corps is considering placing Mobi-Mats over at least some of the sand walkways to improve access.
 - g. Additional Remediation Actions/Plans – Walters (subcontractor) continued placing additional sand in graded areas, including basins, in preparation for the possible implementation of a point sump system. Today work in this regard took place at the basin between Fredericksburg and Argyle and the basin between Argyle and Brunswick. The Corps has discussed the possible implementation of a point sump system with Margate and wants to hear Margate’s concerns and views regarding such a system as soon as possible. The Corps requests that Margate review, as soon as possible, the plans for this system, which were provided yesterday to counsel and the Mayor. Today the Corps had discussions with the NJDEP about the possible implementation of this system. In that the Corps believes the point sump system will help remediate future ponding in basins, the Corps wants to implement the point sump system as soon as possible and, if the Corps does not receive Margate’s input by tomorrow, the Corps may need to implement the system without Margate’s input.
2. Project Activities and Plans - The dredge arrived off Margate today. As of 7:15 pm, the dredge was not pumping sand. The Corps anticipates that the pumping of sand to the Margate beach will begin later this evening.
3. Other Relevant Activities, Information, Problems and Communications – This morning the Corps’ attorneys and John Kasbar, Esq., the Corps’ Philadelphia District Counsel, received data related to the Corps’ ongoing gathering of data and information about the potential root causes of the unexpected ponding on the beach. Recent measurements found that groundwater elevation levels in the construction zone area are between 4 and 4.7 NAVD88. Ground water elevation measurements in an area south of the project construction area, at Quincy, were between 3.4 and 4.2 NAVD88. The non-construction elevations are higher than those testified to by the Corps hydrologist Michael Bartles in the Erlbaum hearing, who appears to have testified that maximum ground water elevation was around 2.5 NAVD88. These newly-measured elevations are being run through the model the Corps relied upon in the Margate City Hydrologic Investigation to determine whether and to what extent these elevations may affect, if at all, the conclusions about Project design drawn in that investigation. Without delay, after receiving this information, AUSA Taylor and I advised Margate’s counsel of the information in a telephone call, I conveyed the information in an email to the Court and parties, and AUSA Taylor conveyed the information in a nearly identical email to the Third Circuit and the parties. After considering this new information, Margate’s counsel requested and the Court scheduled a conference call, which took place at 4:00 pm today. Also, today the Third Circuit denied Margate’s motion for a stay of Judge Bumb’s order of August 10, 2017, and referred to a full motions panel the question of whether Judge Bumb’s order is immediately appealable.

4. Photographs – I have attached the following photos from today: 13 photos of the basin areas, taken this morning; one photo of the basin area at Andover, taken while it was raining; a photo of a truck spreading sand at a basin area; and a photo of sand movement.