

Ed/Gary – please send everyone a brief summary of what this data collection memo means. My interpretation is that they are still collecting information, that they are now doing the tests they should have done pre construction and that they have not yet drawn any conclusions. But we need your insight.

Thanks,

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From: Ruymann, John (USANJ) [<mailto:John.Ruymann@usdoj.gov>]

Sent: Wednesday, August 16, 2017 10:24 PM

To: judge_joel_schneider@njd.uscourts.gov; Rand, Jordan; TValen@gibbonslaw.com; DSantomauro@gibbonslaw.com; 'Kristina Miles'; Taylor, Anne (USANJ) 6; Kasbar, John F NAP

Subject: Margate - Corps' Report for August 16, 2017, 1 of 2

Dear Judge Schneider and Counsel,

Here is the Corps' report for August 16, 2017.

1. Summary of conditions and remediation efforts:
 - a. Condition of Basins – The 13 photos (see the first attachment) from this morning show that most of the basins have no ponding and a few of the basins have a small amount of ponding. According to the Corps employee who took the photos, the ponding was due to rain. The second attachment is a photo of ponding next to and east of the bulkhead at Exeter. According to the Corps' Project Manager, Keith Watson, the ponding visible at Exeter is due to a pre-existing

situation, unrelated to the Corps' Project. Another Corps Engineer, Stephen England, indicates that there is a storm sewer inlet at the end of Exeter that exits on the seaward side of the bulkhead at elevation 3.01 feet NAVD88; in the storm sewer inlet there is standing water that is approximately 2.2 feet below of the top of the storm sewer intake grate; the water level in the storm sewer inlet is the same as the water level of the ponded water adjacent to the bulkhead on the seaward side; and measurements taken by the Corps in the immediate vicinity indicate that the water table levels are actually above the Exeter outflow pipe. For at least the last four 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 use of a sump and pipes to facilitate the drainage of the basin areas by carrying water to the ocean side of the dune. Today Walters scarified the basin between Brunswick and Clarendon, graded the basin between Fredericksburg and Argyle, and moved sand to the basin between Argyle and Brunswick.

- 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. Consistent with the direction provided to the Corps by Judge Schneider at today's status conference, the Corps will put fencing around the sumps in the basins when the Corps installs the point sump system.
- c. Water Quality Testing – The Corps is going to sample and test the ponding water at Exeter tomorrow, notwithstanding the Corps' belief that the ponding at that location is due to a pre-existing condition unrelated to the Project. The Corps will report the results of the testing of the ponding at Exeter. The Corps is ready to commence water quality testing in accordance with item 3 of the Order in any other basin area that contains 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. The ponding at Exeter adjacent to the bulkhead (see the second attachment) was not pumped today, even though the depth of that ponding appears to exceed 4 inches, because the Corps believes it would not be "reasonably practicable" to pump water that is actually below the water table. (See item 9 of the Order, stating the preventive measures shall be done to the extent reasonably practicable.) Due to the level of the water table, if the Corps did pump that water, the Corps believes it would just refill with water. If the other parties disagree with the Corps' assessment of the water table at Exeter and the Corps' position that pumping would not be reasonably practicable, please discuss with the Corps. If the Court needs additional information about the Exeter situation, the Corps would like to discuss its position further in a telephone conference.

Tomorrow, the Corps will measure the depth of and photograph the water at Exeter, and provide the Court and parties with that information and those photographs.

- 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 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 an effort to comply with the Court's directive, given at the status conference of August 14, 2017, to provide ADA compliant walkways at reasonable intervals, the Corps installed Mobi-Mats over all elevated walkways. The Corps anticipates that the mats will improve access for all. The Corps will evaluate the effectiveness of the mats, and look into other options, in an effort comply with ADA access requirements. The fourth attachment is a photo, taken today, of a newly installed Mobi-Mat over a walkway.
 - g. **Additional Remediation Actions/Plans** – Walters (subcontractor) continued placing additional sand in graded areas, including basins, in preparation for the probable implementation of a point sump system. Today the Corps discussed the implementation of the point sump system with the other counsel and the Court during today's status conference. The Corps may begin installation of the hardware for the point sump system as early as tomorrow. The Corps contemplates placing a sump in each of the basin areas it constructs.
2. **Project Activities and Plans** - The dredge arrived off Margate yesterday. The dredge did not pump sand today because ocean swells made the work impossible. The Corps anticipates that the pumping of sand to the Margate beach will resume tomorrow.

3. Other Relevant Activities, Information, Problems and Communications – The Court held a status telephone conference today at 4:30 pm. During that conference, the Court, with the consent of the parties, postponed the preliminary injunction hearing previously scheduled for August 24, 2017, and scheduled a telephone status conference for August 21, 2017. Also during the status conference, the parties discussed the Corps' plan to implement a point sump system. Margate voiced its objection to the implementation of such a system. Notwithstanding Margate's position, the Corps will implement such a system. The Court directed the Corps to put fencing around the sump area of any installed point sump system and make sure the outflow pipes in such a system do not create a tripping hazard. As discussed at the status conference, the Corps and NJDEP have had discussions regarding the placement of the outflow pipe for the point sump system. The Corps wants to receive NJDEP's input on the placement of the outflow pipe as soon as possible. The third attachment is a memorandum, with two enclosures, from the Engineering Branch of the Corps' Philadelphia District, summarizing recent data collection efforts and the Corps' approach to complying with the Order's directives in item 1 (data collection and investigative efforts) and item 3 (water quality testing). The first enclosure to the memorandum is a summary of collected data. The second enclosure includes the hand augur logs and associated sieve curves for most of the samples.

4. Photographs – I have attached the following photos from today: 13 photos of the basin areas, taken this morning; the photo of ponding at Exeter; and a photo of a newly installed Mobi-Mat. Along with the second part of today's report, I will transmit four other photographs taken today. Those additional photos depict areas where the Corps has not yet started construction of the Project. Those four photographs depict ponding on the beaches at Quincy, Rumson, Nassau and Osborne.

Please let me know if you have any questions.

Respectfully,

s/ J. Andrew Ruymann

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