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VIA ELECTRONIC MAIL

January 5, 2024

Paul Ruesch, On-Scene Coordinator
U.S. EPA Region 5, Superfund Division
77 W. Jackson Blvd. (SE-5J)
Chicago, IL 60604-3590

Re: Allied Paper, Inc. / Portage Creek / Kalamazoo River Superfund Site – OU 5 Area 4
Removal Work Plan Draft for “Part 1”

Dear Mr. Ruesch,

We have received your December 21, 2023 letter regarding the draft Area 4 Removal Work Plan for the “Part 1” time-critical removal action (“TCRA”). We are writing because several of the requested “next steps” in the letter require further clarification before NCR Voyix¹ can provide a revised work plan and drawings by January 31, 2024, as you request in the letter. We describe the required clarification in this letter and ask that we meet during the week of January 8, 2024.

First, the letter says that EPA identified “errors, omissions and inconsistencies” in the drawings we submitted on November 16, 2023, that those issues were discussed during our December 7, 2023 meeting, that they are “further identified” in comments submitted by the State of Michigan, and that they should be “address[ed]” in the upcoming January 31 submission. Clarification is needed regarding the following:

- We respectfully disagree that the drawings contain “errors, omissions and inconsistencies.” While EPA, its START contractor, and State asked questions during the December 7 meeting, NCR Voyix and its contractor GEI Consultants provided answers to those questions, and we do not recall leaving the meeting with any list of items that EPA

¹ In October 2023, NCR Corporation changed its name to NCR Voyix Corporation.

had identified as errors, omissions, or inconsistencies requiring correction. If you believe otherwise, please provide a list of the issues that require correction.

- The letter says that these alleged errors, omissions, and inconsistencies are “further identified” in the State’s comments. The State’s comments were not discussed at the December 7 meeting. In addition, the State’s comments address a wide range of issues and sometimes make requests that contradict direction that EPA has previously given. As a result, we do not know whether EPA is now adopting the State comments fully as its own or, if not, what portions of the State’s comments represent the alleged errors, omissions, or inconsistencies that EPA wants corrected.
- In any case, as we advised you at and before the December 7 meeting, we already intend to revise the drawings after the general contractor for the Part 1 TCRA work is hired in early spring 2024. Waiting to revise the drawings until the contractor is hired will allow the contractor to give input to the drawings and sequence of work. We would then incorporate that input, along with any changes identified through discussion with EPA, into a “Final Design / Issue for Construction” set of drawings. This progression represents standard engineering practice. We would like to discuss this further when we meet.

Second, the letter says that EPA does not agree with NCR Voyix’s review of the sampling data and transects in front of Trowbridge Dam and the proposed water control structure (“WCS”) to determine that the sediments to be removed there “do not warrant removal pursuant to the TCRA and therefore will be relocated on site.” But the only deficiency identified in the analysis is that it “needs to be discussed” further with EPA and the State. NCR Voyix is willing to discuss this issue further, but we need clarification of whether EPA has any substantive changes that it wants to see in the work to be performed.

Third, the letter directs our attention to a subset of the State’s comments highlighted in green on a spreadsheet and asks us to “address” them and “incorporate into” the January 31 submission. We need clarification on whether EPA intends us to follow all the State’s recommendations as if they were EPA directions or whether EPA intends us to consider each comment and propose an appropriate resolution to EPA. As noted above, some State comments make requests that contradict prior EPA direction. For example, Comment 7 says that GEI should “make arrangements and plan to dispose of sediments” from the Beaver Island area in front of the Trowbridge Dam and WCS, a request that is inconsistent with the discussion during the December 7 meeting and EPA’s statement that the issue “needs to be discussed” further. And Comment 35 asks that we change the cleanup levels for the TCRA, levels that EPA – not NCR Voyix – established for the project.

In addition to these needs for clarification, we are concerned with the timing of the preliminary results from toxicity testing, an “overview” of which the letter says will be available in mid-January. If the toxicity testing leads EPA to direct “prevention/stabilization of mid-channel sediments in Subarea C & D subject to mobilization,” as the letter says may be needed, we will

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need time to evaluate and develop measures to do this. We will not be able to design those measures and incorporate them into the work plan and drawings by January 31. Moreover, it is not clear that feasible methods even exist to prevent these sediments from moving during the removal work. Finally, EPA has committed to providing direction on the scope of the Part 2 TCRA work by January 31. One of the issues that underlies this decision is the acceptable rate of downstream movement of remaining sediment post-removal. We are worried that EPA will not be able to digest the toxicity testing data and provide a rationale for decisions regarding sediment transport between mid-January and January 31.

As noted above, we request that we meet during the week of January 8 to discuss these issues further. If you would please coordinate with me to set a time and place for that meeting, I would appreciate it.

Sincerely,

A handwritten signature in blue ink, appearing to read "Bryan Heath", with a long horizontal flourish extending to the right.

Bryan Heath

Cc: John Jolly, GEI Consultants