

APPENDIX A

Stipulation and Order, pages 10-11

Language on South Elizabeth Channel Silt Curtain Study and Report

Reports described in paragraphs 14 and 15 and Appendices A and B of this Stipulation and Order prior to applying for an FCD/WQC for contract area S-NB-2, AK-1, AK-2 or AK-3 of the HDP as defined in the Final EA, Defendants are not required to apply for an amended FCD/WQC before proceeding to dredge in the areas described in paragraph 8.a-c for that contract.

B. South Elizabeth Channel Silt Curtain Study and Report

10. Defendants shall, consistent with United States Army Corps of Engineers Safety and Health Regulations EM 385-1-1, and subject to any necessary approval by NJDEP, deploy a silt curtain in a portion of the South Elizabeth Channel (an element of the S-NB-2 contract area), subject to appropriate hydrodynamic conditions (*i.e.*, at a minimum, a flow regime that is reasonably steady and is of sufficient velocity to disperse sediments), such that environmental protection, safety, and navigation are not compromised. While the Silt Curtain is deployed, Defendants shall monitor its effectiveness at limiting the transport of any dredging-induced resuspended sediment and evaluate the feasibility of its use in future HDP dredging within the NBSA.

11. Defendants shall document in a written report (“Silt Curtain Pilot Study Report”) their monitoring of the silt curtain’s effectiveness at reducing the transport of any dredging-induced resuspended sediment, and their assessment of the feasibility of its use for that purpose in future HDP dredging within the NBSA.

12. Defendants shall complete the final Silt Curtain Pilot Study Report within fifteen (15) months after the exercise of the side slope/channel widening option(s) within the S-NB-2 contract. Promptly upon completion, Defendants shall provide the final Silt Curtain Pilot Study Report to Plaintiffs, USEPA, NJDEP and NYSDEC, and shall publish a notice of

availability of the final Silt Curtain Pilot Study Report on its website.

13. Prior to finalizing the Silt Curtain Report, Defendants shall circulate a draft to Plaintiffs, NJDEP and NYSDEC for comment. Defendants shall consider in good faith any comments on the draft Silt Curtain Pilot Study Report that Plaintiffs, NJDEP and/or NYSDEC submit to Defendants, provided that such comments were received by Defendants within twenty-one (21) days of the commenter's receipt of the draft Silt Curtain Pilot Study Report (or within a longer period at the discretion of Defendants). Defendants shall retain ultimate discretion as to incorporation of any specific revisions proposed by the commenters into the final Silt Curtain Pilot Study Report. No later than two (2) months after completing the final Silt Curtain Pilot Study Report, Defendants shall provide a written response to any comments timely submitted by Plaintiffs on the draft Silt Curtain Pilot Study Report.

C. Pilot Project

14. Defendants shall perform a Near Field Turbidity/Total Suspended Sediments Pilot Study ("NFTTSS") Pilot Study in the "narrow channel" contract area of the S-NB-1 contract area (the "NFTTSS Pilot Study") as set forth in Appendix A.

D. Stratified Sampling

15. Defendants shall perform a Stratified Sampling Project for HDP contract areas in the NBSA subsequent to S-NB-1 ("Stratified Sampling"), as set forth in Appendix B.

IV. COORDINATION WITH OTHER AGENCIES

16. Defendants shall continue to coordinate their HDP dredging activities in the NBSA with USEPA, NJDEP, NYSDEC, and the Federal Natural Resource Trustee agencies, and shall solicit the advice of those agencies on any such activities that may have an effect upon