

UNITED STATES DISTRICT COURT
 EASTERN DISTRICT OF MISSOURI
 EASTERN DIVISION

STARR INDEMNITY & LIABILITY)
 COMPANY and NEW YORK MARINE &)
 GENERAL INSURANCE CO.,)
)
 Plaintiffs,)
)
 vs.)
)
 CONTINENTAL CEMENT COMPANY,)
 L.L.C., SUMMIT MATERIALS, L.L.C., and)
 THE UNITED STATES ARMY CORPS OF)
 ENGINEERS,)
)
 Defendants.)

Case No. 4:11CV809 JAR

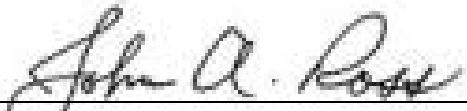
MEMORANDUM AND ORDER

This matter is before the Court on Plaintiffs’ Motion to Compel Inspection of Mark Twain (ECF No. 66). Plaintiffs ask for an “unencumbered inspection of the *Mark Twain*.” (Id., p. 1). That is, Plaintiffs want their diver to inspect the *Mark Twain* without another diver present in the water. (Id., ¶¶2-5). Defendant, however, desires to have its own diver present during the inspection and states that it is “entitled to have its own diver enter the water at the site of the barge during the inspection.” (Id., ¶7; see also ECF No. 68, p. 4 (“Continental is simply requesting that it have a representative present in the water, or, at the very least, on the tender and/or stationary dock barge to observe Starr’s diver.”)).

During the telephone conference with the Court, the parties agreed that Plaintiffs’ diver could have unrestricted access to the *Mark Twain*, without another diver in the water. Defendant could have another diver present at the inspection along with others including a marine surveyor, but Defendant’s diver cannot enter the water at the same time that Plaintiffs’ diver performs his inspection. Defendant’s diver can enter the water after Plaintiffs’ diver concludes his inspection. Defendant’s boat should not operate above the barge during Plaintiffs’ diver’s inspection, or in any

way impede Plaintiffs' diver's inspection or risk the safety of Plaintiffs' diver. The Parties are ordered to cooperate and coordinate activities to insure the safety of all participants.

Dated this 23rd day of July, 2012.



JOHN A. ROSS
UNITED STATES DISTRICT JUDGE