



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 2  
290 BROADWAY  
NEW YORK, NY 10007-1866

2/5/03 - 02312

FEB - 5 2003

**CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

Mr. Christopher T. Penny  
Project Coordinator  
Installation Restoration Section (South)  
Environmental Program Branch  
Environmental Division,  
Atlantic Division (LANTDIV), Code 182  
Naval Facilities Engineering Command  
1510 Gilbert Street  
Norfolk, VA 23511-2699

Re: Atlantic Fleet Weapons Training Facility (AFWTF) - EPA I.D.# PRD980536221  
OE/MEC Site Investigation Work Plan for Blue Beach and Red Beaches

Dear Mr. Penny:

The United States Environmental Protection Agency (EPA) Region 2 has received a copy of the "Final Preliminary OE/MEC Site Investigation Work Plan for Blue Beach and Red Beaches" located in the Eastern Maneuver Area of Vieques Island. EPA received the work plan with a copy of the transmittal letter from Mr. Martin Clausen [of the Navy's consultant CH2MHill] to Mr. Rick Urbanski of Naval Ordnance Safety and Security Activity, dated November 20, 2002. Although that transmittal letter did not specifically indicate that the document was being submitted for EPA's review and comment, we have considered the work plan as having been submitted pursuant to the January 2000 RCRA 3008(h) Order on Consent (the Order) between the Navy and EPA. Accordingly, this letter is addressed to you as the Navy's designated Project Coordinator pursuant to Section IX of the Order.

In telephone discussions between Mr. Tim Gordon of my staff and yourself on December 12, 2002, you suggested that the OE/MEC Site Investigation for Blue Beach and Red Beaches was not subject to the requirements of the Order, because no release of hazardous waste or constituents had yet been confirmed at these beaches.

The requirements of Section VI.A of the Order are triggered "[i]f at any time during the pendency of this Order [the] Navy obtains or discovers information concerning a release of any hazardous waste or hazardous constituent ... in addition to or different from that described in Section IV, 'Findings of Fact' ..., or in the Administrative Record...." In our view, triggering of this provision of the Order does

not require dispositive or conclusive proof that a release has in fact occurred. Often, such proof is only available after a detailed field investigation has actually been performed. Rather, this provision is triggered when information is obtained or discovered indicating that a release may have occurred, prompting further field investigation. A primary purpose of Section VI.A. of the Order is to provide an opportunity for EPA to ensure that any field investigation to determine the nature and extent of a hazardous release is carried out in an appropriate manner. It would be counter-intuitive and counter-productive to wait until after a field investigation is carried out before concluding that Section VI.A. of the Order is triggered.

Given the nature of the past use of the Blue and Red Beaches, and given the Navy's decision to undertake the OE/MEC Investigation there, it appears to us likely that information is available indicating the possibility of a release at those beaches. We note, as well, that Blue and Red Beaches are not located within the three areas (including SWMU #9 (Explosive Ordnance Firing Range), also known as (a/k/a) the Live Impact Area) which, pursuant to Section IV.7(d) of the Order, were specifically excluded from the Order as they were located within active military range areas. Therefore, Blue and Red Beaches are not covered by the exclusion given in Section IV.7(d) of the Order.

With respect to investigations that fall within the provisions of the Order, pursuant to Section VI.A. (Interim Measures and Newly Discovered Releases) the Navy is required, among other things, to:

- a) verbally notify EPA of a determination within three days of it obtaining or discovering information concerning a release of any hazardous waste or hazardous constituent in addition to or different from those described in the Findings of Fact (Section IV) of the Order;
- b) notify EPA in writing within 21 calendar days;
- c) submit to EPA for its approval a work plan for the implementation of an expedited removal action if warranted; and
- d) if required by EPA, submit a work plan for environmental sampling and other investigations to fully characterize the nature and extent of the release.

As noted above, EPA is considering the OE/MEC Site Investigation Work Plans for Blue Beach and Red Beaches as having been submitted to EPA for review and comment pursuant to the Order, and EPA provides the following comments:

1. The work plans involve investigation for OE/MEC only (a/k/a UXO, *i.e.*, unexploded ordnance). If any OE/MEC is found to be present, a program of environmental soil sampling for possible chemical residues resulting from the OE/MEC should also be implemented.

2. To be consistent with the recent (August - November 2002) public review for the RFI and other work plans developed under the Order, as well as the Community Relations Work Plan developed under the Order, the OE/MEC Site Investigation Work Plans for Blue Beach and Red Beaches should, at a minimum, be placed in the public repositories which have been established pursuant to the Community Relations Work Plan developed under the Order, and the Navy should give Public notification of the work plans.
  
3. Within 45 days of your receipt of this letter, please either submit for Blue and Red Beaches all notifications and work plans required pursuant to Section VI.A of the Order, and/or whatever information the Navy has in its files regarding the presence of possible OE/MEC at Blue and Red Beaches. In addition, please submit a written response addressing the two comments immediately above.

If you have any questions, please telephone Mr. Tim Gordon, EPA's designated Project Coordinator for the Order, at (212) 637 - 4167.

Sincerely,



Walter Mugdan, Director  
Division of Environmental Planning & Protection

cc: Captain John R. Warnecke, Commanding Officer, U.S. Naval Station  
Roosevelt Roads  
Yarissa Martinez, Office of the Chairman, PREQB  
Carmello Vazquez, Director, Land Pollution Regulation Program, PREQB  
Madeline Rivera, U.S. Naval Station Roosevelt Roads