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COMMONWEALTH OF PUERTO RICO
OFFICE OF THE GOVERNOR
ENVIRONMENTAL QUALITY BOARD

Carlos W. López Freytes, Esq.
President

April 8, 2005

Mr. Christopher T. Penny
Remedial Project Manager
Naval Facilities Engineering Command
Atlantic Division, Code EV 23
1510 Gilbert Street
Norfolk, VA 23511-2699

Re: Final Time Critical Removal Action/Interim Measures Work Plan

Mr. Penny:

Upon review EQB finds the subject document to be much improved over previous versions. Almost all of our comments have been adequately incorporated. We appreciate your efforts in achieving consensus agreement prior to starting field activities.

There are, however, a few issues that need to be addressed for the purpose of clarification. Please note that we are not requesting a revision of this plan, however an addendum should be issued. These issues are:

1. On page ES-1, this new section (the Executive Summary) contains the statement (in the third bullet) that the DOD protocol will be used for prioritizing munitions response (MR) sites on VNTR. The regulating agencies had discussed that a specific protocol for VNTR will be developed and a significant amount of work has been accomplished toward development of such a prioritization and hazard assessment protocol. It is correct that this VNTR prioritization and hazard assessment protocol may be based on the existing DoD protocol developed to be applied to all MR sites on a national level. But it was agreed that any existing protocol should be thoroughly reviewed and modified, if necessary, to more accurately reflect the conditions and characteristics specific to VNTR.
2. Section 2.2 contains a listing of "Guidance, Regulations, and Policy" that are "applicable or potentially applicable during MEC assessment, recovery, and removal operations on VNTR". However, this list doesn't contain any guidance, regulations, and policies specific to either the Commonwealth of Puerto Rico or the U.S. Fish and Wildlife Service.

I understand that you are already going to incorporate the general Puerto Rico law governing use of explosives in Puerto Rico (TITLE 25, INTERNAL SECURITY; SUBTITLE 1. GENERALLY; PART V. REGULATION OF FIREARMS, EXPLOSIVES, AND OTHER DANGEROUS DEVICES; CHAPTER 59. EXPLOSIVES ACT) by addendum to this document and that this is being done because you were not able to obtain this specific reference in time to support the production of the final version of this work plan. However, it is likely that there are other laws of Puerto Rico and potentially guidance from the USFWS that should be incorporated into this table to make it more complete. I recommend that more research into the laws of Puerto Rico and guidance from the USFWS be conducted to make this table more complete in future documents and to assist you and your contractors in compliance. Also note that the Puerto Rico Explosives regulation cited above should also be referenced in Section 3.2.

3. In section 2.5.4 you attempt to comply with EQB's request for you to conduct a brief analysis of the hazards presented by MEC and UXO that is left in place after discovery and prior to disposal. This analysis should be conducted prior to implementing this work plan to address our main concern, which is the protection of the citizens of Puerto Rico during times, they are known to trespass on the property, including desirable beaches. We also expect to be receiving updates with details of the MEC/UXO that has been found and disposed of. Also, according to US Army Corps of Engineers EP 385-1-95a

8. General Safety Concerns and Procedures

- b. All UXO will be destroyed daily unless circumstances beyond the contractor's control (e.g., unexpected weather storms, unavailability of donor explosives, etc.) preclude their destruction. If a UXO cannot be destroyed on the day of the discovery, then the items will be secured and guarded until destruction can be accomplished. Under no circumstances will UXO be left unsecured overnight.

referenced in Section 2.2 Table 2.1, items should be destroyed on a daily basis after discovery. This should be addressed.

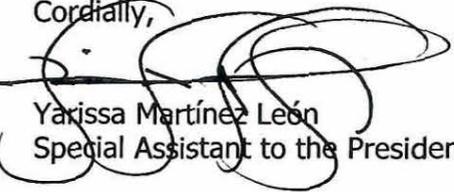
4. In section 2.9.2 you describe, in general terms, the data that will be collected on MEC discovered during the project. We would like to examine and have input to the specific data fields that are going to be acquired, in order to ensure that all the data that is needed for future decision making will be captured during this fieldwork.
5. Table 8-1 presents the project schedule. It is noted that mobilization is scheduled for April 8, 2005, and we have not received the Remedial Action (RA) contractor's work plan. As we agreed, the Navy is responsible for ensuring that the RA contractor's work plan complies with the requirements of this work plan and is technically working "at risk" in the event that there are instances where the RA contractor's work plan does not comply with this work plan. This is because EQB and other regulators will not have the opportunity to review the RA contractor's work plan prior to the start of work. EQB does intend to review the RA contractor's work plan when it is provided by the Navy. Also, keep us informed of any changes to the schedule. This can be done through emails or telephone calls.
6. Chapter 10, the QC Plan, is greatly improved over previous versions. The following issues should be clarified:
 - The term "Program QC Manager" and "Program QC Officer" appear to be used interchangeably in this chapter. Note that "officer" is used in the QC organization chart and in text such as in section 10.3.10.4. "Manager" is used in the description of this position in section 10.2.6 and elsewhere in the text such as in section 2.3

(under UXOQCS). Please confirm that these titles are used interchangeably for the same position. Also, there is some ambiguity about who this person works for. It is believed that this person works for the Title II Services Contractor. Please confirm this also.

- It is recommended that you hold a final QC Certification Meeting after the project is completed. This meeting has proven to be successful on other projects in achieving project closure. Such a meeting could be attended by technical representatives of the regulators and project stakeholders and they could receive presentations on the project QC documentation and final QC inspections that were accomplished during the project. This meeting could be used to verify that the QC records are complete and accurate and that the project goals have been achieved. Such a meeting could conclude with a statement from the attendees noting any quality discrepancies that need to be resolved or a statement certifying that the QC documentation has been reviewed and no discrepancies were noted, if that is the case. If you agree with the usefulness of this meeting it could be implemented at the conclusion of this project without modification to this plan.

EQB is looking forward to a successful project that results in a significant reduction in the MEC and UXO hazards in this area of the Live Impact Area. We appreciate your efforts in resolving EQB's technical comments.

Cordially,



Yakissa Martínez León
Special Assistant to the President