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LETTER FROM U S NAVY REGARDING DRAFT EXPLANATION OF SIGNIFICANT  
DIFFERENCES TO THE RECORD OF DECISION OPERABLE UNIT 8 (OU 8) NCBC  
DAVISVILLE RI  
02/07/2014  
BRAC PMO NORTHEAST



**DEPARTMENT OF THE NAVY**  
BASE REALIGNMENT AND CLOSURE  
PROGRAM MANAGEMENT OFFICE, NORTHEAST  
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Ser BPMOE/14-076  
February 7, 2014

Ms. Christine Williams  
Mail Code: OSRR07-03  
U.S. Environmental Protection Agency, Region I  
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Boston, MA 02109-3912

Mr. Richard Gottlieb  
Office of Waste Management  
Rhode Island Department of Environmental Management  
235 Promenade Street  
Providence, RI 02908-5767

Dear Ms. Williams and Mr. Gottlieb:

The Navy is in receipt of your comments on the draft Explanation of Significant Differences (ESD) to the Record of Decision (ROD) for Operable Unit 8 (OU8) dated 22 August 2013 and 22 July 2013, respectively. Upon further review and inspection of these comments with respect to the ROD, Action Memorandum for the removal of the DANC containers (AM), Removal Action Work Plan (RAWP), and the Remedial Action Completion Report (RACR), the Navy has determined that an ESD is not necessary or appropriate for the circumstances at OU8, and we no longer plan to issue an ESD for the reasons described below.

The ROD for OU8 was executed in September 1999. The remedy consisted of (1) implementation of a deed restriction preventing the use of groundwater, (2) long term monitoring of the groundwater, (3) 5 year reviews, and (4) confirmation of a closeout report for three former munitions bunkers. There was no remedial component to address soil or debris. This was due to the determination that site soils did not pose an unacceptable risk and did not warrant any remedial action based on anticipated future uses.

Pursuant to recommendations in the second Five Year Review the Navy performed a source area investigation that consisted, in part, of a geophysical study of the presumed disposal area. This effort led to the discovery, identification, confirmation, and subsequent excavation and removal of the remaining containers and potentially impacted soils from the vadose zone of the presumed OU8 contamination source disposal area. The determination was made to address this area using CERCLA's removal action authority, and USEPA and RIDEM provided input into the Removal Action Work Plan. It is noted here that both the FFA and EPA removal action guidance allow for removal actions to occur after a ROD has been signed. The removal action was documented in an Action Memorandum decision document dated November 2011.

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The first time that an ESD was suggested occurred at a BCT meeting 10 months after the Navy contemplated a removal action. If the Navy and the agencies truly viewed the removal action as a modification to the existing remedy - whether significant or fundamental - the time to pursue an ESD or ROD Amendment would have been before the removal action was taken. In fact, the major purpose of an ESD as established in CERCLA Section 117(c) and Section 300.435(c)(2) of the NCP is to put the public on notice of the proposed changes to a previously selected ROD. Here, where the FFA signatories elected to proceed with a CERCLA removal action rather than an ESD or ROD Amendment, and where the public participation requirements of the removal action process have already been satisfied, it makes little sense to issue an ESD. The ESD would not provide any meaningful information for the public and would not add any new substantive information to the administrative record for the site.

In any event, the removal activities cannot be viewed as fitting properly within the ESD process since the removal action addressed a medium (soil) that was not even one of the components of the original remedy. If anything, a ROD amendment might have been an appropriate path several years ago, but the path chosen - a CERCLA removal action - was an equally valid and perhaps more appropriate choice for the circumstances at OU8. Furthermore, because completion of the removal action as described in RACR resulted in this area being suitable for unrestricted use and unlimited exposure, no long term remedial action (e.g., LUCs or monitoring) is necessary for the removal action area. Thus, the outcome of the removal action did not create a need for any changes to the remedial action selected in the ROD.

For the foregoing reasons, the Navy will not be preparing an ESD for OU8. If you have any questions please do not hesitate to contact me at 617-753-4656.

Sincerely,



DAVID BARNEY  
BRAC Environmental Coordinator  
By direction of BRAC PMO

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