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NAS SOUTH WEYMOUTH
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LETTER AND COMMENTS FROM MASSACHUSETTS DEPARTMENT OF ENVIRONMENTAL
PROTECTION CONTROLS IMPLEMENTATION PLAN FOR OPERABLE UNITS 2 (OU 2) AND
9 REGARDING REVISED LAND USE (OU 9) NAS SOUTH WEYMOUTH MA
08/07/2009
MASSACHUSETTS DEPARTMENT OF ENVIRONMENTAL PROTECTION



COMMONWEALTH OF MASSACHUSETTS
EXECUTIVE OFFICE OF ENERGY & ENVIRONMENTAL AFFAIRS
DEPARTMENT OF ENVIRONMENTAL PROTECTION
ONE WINTER STREET, BOSTON, MA 02108 617-292-5500

DEVAL L. PATRICK
Governor

TIMOTHY P. MURRAY
Lieutenant Governor

IAN A. BOWLES
Secretary

LAURIE BURT
Commissioner

Mr. Brian J. Helland, RPM
BRAC PMO, Northeast
4911 South Broad Street
Philadelphia, Pennsylvania 19112

Re: LUCs Implementation Plan
Rubble Disposal Area
Former South Weymouth NAS
RTN 4-3002621
August 7, 2009

Dear Mr. Helland:

The Massachusetts Department of Environmental Protection (MassDEP), Bureau of Waste Site Cleanup, has reviewed the revised *Land Use Controls Implementation Plan for Rubble Disposal Area, Operable Units 2 and 9, Naval Air Station South Weymouth*, dated July 2009. Comments are attached.

If you have any questions about the comments, I can be reached at 617-348-4005.

Sincerely,

David Chaffin
Federal Facilities Project Manager
Bureau of Waste Site Cleanup

CC: D. Barney, USN-S. Weymouth
K. Keckler, USEPA
Chief Executive Officer, SSTDC
RAB Members
A. Malwicz, MassDEP-Boston

**MASSDEP COMMENTS ON
LAND USE CONTROLS IMPLEMENTATION PLAN
RUBBLE DISPOSAL AREA
FORMER SOUTH WEYMOUTH NAVAL AIR STATION (RTN 4-3002621)
AUGUST 7, 2009**

1. Section 2.0, Final Paragraph: To clarify the role of the plan in the site remedy, it would be helpful to identify the three key remedial plans that govern the long-term remedial actions at the site (long-term monitoring plan, operation and monitoring plan, and land use control implementation plan) and briefly describe the scope and purpose of those actions.
2. Section 3.0, Page 4: The plan should indicate the date on which the “Restrictions to be imposed on the site property...” would be imposed or become effective (e.g., November 2006, July 2009, or upon EPA approval of the LUCIP), and the plan should identify the documents that would be used to impose the restrictions on the site property (e.g., EPA-approved LUCIP, deed, and GERE).
3. Section 3.0, Page 4: Rather than restricting “...use of the property in a manner that restricts access to any required remedy components...” the plan should restrict use of the property that would interfere with operation or function of the remedy components.
4. Section 4.0, Implementation Action 2: A “survey plan”, rather than a “plot”, should be used to identify the site property and the restricted area within the site property (refer to MassDEP guidance document *Guidance on Implementing Activity and Use Limitations*, Interim Final Policy #WSC 99-300 for survey plan requirements).
5. Section 4.0, Implementation Action 3: In addition to incorporating the LUC objectives into property transfer documents, the restricted uses, allowable uses, and obligations and conditions specified in Section 3.0 should be explicitly incorporated into the property transfer documents.
6. Section 4.0, Implementation Action 3: To ensure that deed language would be acceptable in the event that a deed is used to impose the LUCs on the site property, and to support a finding of suitability for transfer, the deed language should be included in the plan.
7. Section 4.0, Implementation Action 3: To ensure that a GERE would be acceptable in the event that a GERE is used to impose the LUCs on the site property, and to support a finding of suitability for transfer, the GERE language should be included in the plan.
8. Section 4.0, Implementation Action 4: To allow the regulatory agencies to conduct LUCs compliance monitoring, the plan should specify that the Navy will provide an opportunity for EPA and MassDEP to participate in the annual LUCs compliance inspections and provide 7-day notification prior to the annual inspections.

9. Section 4.0, Second to Last Paragraph: The plan should identify the legal instrument(s) that will provide EPA with the means to enforce LUCs compliance while the Navy controls the site property (e.g., FFA).
10. Section 4.0, Last Paragraph: The plan should identify the legal instrument(s) that will provide EPA with the means to enforce LUCs compliance after the Navy transfers the site property (e.g., FFA and deed). In addition, if a deed is to be relied on, the plan should explain the Navy's basis for concluding that the deed would be legally binding in an enforcement action involving a future site property owner.
11. Table 4, Section V: Several of the physical inspection items should be deleted from the checklist because they are not plan-specified restrictions (Items 1, 2, and 3), are allowable (Item 4), or not applicable (Item 10b), and to refocus the checklist on the site-specific restrictions that will be imposed on the site property, the individual restrictions listed under Item 12 (disturbance of cap, digging, drilling, excavation, and construction) should be assigned to separate rows.

