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NCBC GULFPORT  
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LETTER REGARDING U S NAVY RESPONSE TO MISSISSIPPI DEPARTMENT OF  
ENVIRONMENTAL QUALITY COMMENTS ON THE PROPOSED BROWNFIELD  
AGREEMENT SITE APPLICATION NCBC GULFPORT MS  
9/13/2004  
NAVFAC SOUTHEAST

Code ES3  
September 13, 2004

Subj: REMEDIAL ACTION FOR DIOXIN CONTAMINATION FROM SITE 8, NCBC  
GULFPORT, MS

Corrective Action Plan (CAP) were prepared for the Brownfields areas but withdrawn due to concerns with the ecological issues. A draft Ecological Risk Evaluation for the Brownfields areas has also been submitted and comments have been received for incorporation. Completing these Brownfields documents is taking longer than expected and we now face the possibility of signing our CERCLA decision document and starting our CERCLA remedial action without them being complete. Not knowing for sure that our CERCLA cleanup goals will also achieve all of the Brownfields cleanup goals presents some business risk to us. But since our CERCLA cleanup goals are to the Brownfields TRGs and the currently drafted Eco Risk Evaluation cleanup goals are higher than the TRGs, we are willing to accept this risk and proceed with the CERCLA cleanup without final approval of the Brownfield documents. However, we don't want to proceed if you consider our action to be a breach of the 1997 Agreed Order or would jeopardize our Brownfields application. The attached is provided to highlight certain issues and get your opinion before we proceed with the proposed solutions.

We request you review the attached and advise us of any concerns or changes that might be needed for the proposed solutions. We will be glad to meet with you at your convenience if you feel it is warranted. If you have questions, please contact Mr. Art Conrad at (843) 820-5520.

Sincerely,

R. C. DAVIS, JR., P.E.  
Director, Environmental Restoration Division

Encl: Issues Concerning Completion of Brownfields Documentation Associated With Site 8 At  
NCBC Gulfport, MS

Copy to:  
Mississippi Commission on Environmental Quality (Mr. Charles H. Chisolm,  
Mr. Jerry Banks, Mr. Jere "Trey" Hess, Mr. Bob Merrill)

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## ISSUES CONCERNING COMPLETION OF BROWNFIELDS DOCUMENTATION ASSOCIATED WITH SITE 8 AT NCBC GULFPORT, MS

### ISSUE #1 – Will proceeding with CERCLA cleanup force us to withdraw from Brownfields

We have been advised informally that, unless all Brownfields documentation is approved by MDEQ, we will have to withdraw our Brownfields application in its entirety if we proceed with the CERCLA. We haven't found any such restrictions within the Brownfields regulations. Nor have we found language in the currently executed Brownfields Agreed Order of Oct 2003 that would require such a withdrawal.

Knowing that we will have great difficulty getting approval on all the Brownfield documents before EEC is ready to start the CERCLA remedial action, we propose to postpone any further work associated with the Brownfields documentation until after ECC has completed the CERCLA remedial action on the Brownfields eligible properties. We recognize this will require us to substantially modify the currently drafted Brownfields documents, especially the Site Characterization Report. But we feel this is a more prudent business decision than to rush through document completion now or to postpone ECC's efforts beyond the dry season. --

Since the CERCLA remedial action will have significantly altered the site conditions, we understand that we will have to conduct a completely new site characterization effort. We already plan to collect confirmation samples under the CERCLA remedial action and can use these sample results as part of our re-characterization effort.

### ISSUE #2 - Completion of the Site Characterization Report (SCR)

We have the MDEQ approved Surface Water and Sediment Dioxin Delineation Report of 1999 that covered the Brownfields area. We have been using that report as the basis for preparing the SCR. We are now being required to take additional samples to specifically delineate the Brownfields area even though it is totally within the previously delineated area. Similarly we are being required to reevaluate the list contaminants of concern (COC) within the Brownfields area after defining the COCs in the above delineation report. This is being required even though the Brownfields application is specifically for dioxin contamination.

As stated above, we propose to postpone any further work on the SCR and re-characterize the Brownfields areas after we have completed the sediment removals under the CERCLA remedial action. When we collect confirmation samples after the sediment removals, we can also reevaluate the COCs as part of that effort. Even though we do not believe it our obligation to do so under the Brownfields application, we are willing to collect additional data on a full suite of constituents for a reasonable number of the confirmation samples. However, if we should find additional contamination for which we are not responsible, we will want to discuss with you the ramifications to the

Brownfields Agreement. We do not have the legal authority under CERCLA to conduct cleanups on private property for which we are not responsible.

We would also like to suggest MDEQ consider revising the Brownfield guidance for an inconsistency in the "boilerplate" format for Site Characterization Reports. The guidance identifies two Section 8's: one for Quality Assurance Results and one for Summary and Conclusions. We are currently being directed that we must purposefully have two section 8's in the SCR. It seems that the guidance could be corrected without too much difficulty.

Additionally we suggest that the guidance be revised to allow applicants to combine the required figures such that they are not all stand-alone figures. Currently we are required to provide some stand-alone figures, which in our particular case, can be easily and clearly combined into a single figure in the Appendix and would save everyone time and money.

### ISSUE #3 – Completion of the Eco-Risk Evaluation

The ecological evaluation/risk assessment cannot be completed until the SCR is complete. As presented above we are being required to conduct additional sampling to complete the SCR. We therefore cannot complete the Eco-Risk Evaluation before ECC is ready to start the CERCLA remedial action.

We propose to postpone completing the Eco-Risk Evaluation along with postponing completion of the SCR. We recognize the Eco-Risk Evaluation may calculate action levels below the non-residential TRG. However, based on the currently drafted evaluation and comments to date, we believe there is a low probability of such. We are willing to accept the risk of re-work rather than to delay ECC's efforts beyond the dry season.

Additionally, we would like to suggest that MDEQ consider streamlining the risk evaluation process. The guidance on the Tier 1 evaluation process states that a failure to meet all of the conditions in Section 4 of the Eco Checklist would require an immediate move to a Screening Level Eco Assessment, so called Step 1 (via EPA Regs). However, the Tier 2 description states there are options for further Eco Assessment under Brownfields not prescribed by the EPA guidance at an equivalent point. In practice, MDEQ has required exactly the EPA process. This appears to be creating potential redundancy of effort or at least ambiguity in what's required. By the direction we've received, it appears all Tier 2 ecological language could be struck from the regulations so that a failure in Tier 1 Eco Checklist would result in moving to the EPA process at Step 1 without further discussion.

#### ISSUE #4 – Completion of the Corrective Action Plan (CAP)

The CAP cannot be completed until the SCR is approved. As presented above we are being required to conduct additional sampling to complete the SCR. We therefore cannot complete the CAP before ECC is ready to start the CERCLA remedial action.

Additionally, once the CERCLA remedial action is conducted, the proposed remedy for the Brownfields properties will be significantly different.

We propose to postpone completing the CAP along with postponing completion of the SCR. Given that the CERCLA remedial action will cleanup to the non-residential TRGs, we believe the CAP may require institutional controls and no additional remedial action. But we recognize that should the Eco Risk Evaluation calculate action levels below the non-residential TRG, additional remedial actions could be required. We are willing to accept the risk of additional remedial action rather than to delay ECC's efforts on the CERCLA remedial action beyond the current dry season.