

LAND USE CONTROL REMEDIAL DESIGN
Decision Units 1-1, 1-2 and 1-3 at
Site 7 - Tank Farm 1
Operable Unit 13
Naval Station Newport
Portsmouth, Rhode Island

FINAL
Version: 1

Prepared for:



Department of the Navy
Naval Facilities Engineering Command, Mid-Atlantic
9742 Maryland Ave.
Norfolk, VA 23511-3095

Comprehensive Long-Term Environmental Action Navy
Contract Number N62470-11-D-8013

July 28, 2017

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CTO WE64

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List of Acronyms and Abbreviations

AOC	Area of Concern
AST	Aboveground Storage Tank
CERCLA	Comprehensive Environmental Response, Compensation, and Liability Act
COCs	Chemicals of Concern
DLA	Defense Logistics Agency
DoD	United States Department of Defense
DU	Decision Unit
EBP	Ethyl Blending Plant
EPA	United States Environmental Protection Agency
ER	Environmental Restoration
ERA	Ecological Risk Assessment
ESD	Explanation of Significant Differences
FFA	Federal Facilities Agreement
HHRA	Human Health Risk Assessment
IR	Installation Restoration
LUC	Land Use Control
MIDLANT	Mid-Atlantic (NAVFAC Mid-Atlantic Division)
NAVFAC	Naval Facilities Engineering Command
NAVSTA	Naval Station
Navy	Department of the Navy
NCP	National Contingency Plan
NETC	Naval Education and Training Center
NPL	National Priorities List
OU	Operable Unit
PAH	Polycyclic Aromatic Hydrocarbon
PCB	Polychlorinated biphenyls
PDI	Pre-Design Investigation
RD	Remedial Design
RG	Remedial Goal
RIDEM	Rhode Island Department of Environmental Management

ROD	Record of Decision
TF1	Tank Farm 1
TSCA	Toxic Substances Control Act
TV2	Transformer Vault 2
TV3	Transformer Vault 3
UST	Underground Storage Tank

1.0 INTRODUCTION

This document constitutes the Land Use Control (LUC) Remedial Design (RD) for Decision Unit (DU) 1-1, DU 1-2 and DU 1-3 at Site 7 – Tank Farm 1, Operable Unit 13, at Naval Station (NAVSTA) Newport, Portsmouth, Rhode Island. This LUC RD was prepared by Resolution Consultants on behalf of the Department of the Navy's Naval Facilities Engineering Command Mid-Atlantic (NAVFAC MIDLANT). The Navy is the lead agency conducting the environmental investigations and cleanup of NAVSTA Newport. The LUC RD was developed for DU 1-1, DU 1-2, and DU 1-3 at Tank Farm 1 to address LUC implementation actions in accordance with the Record of Decision (ROD) for DUs 1-1, 1-2 and 1-3 at Tank Farm 1 (NAVFAC, 2016), the Explanation of Significant Differences (ESD) (NAVFAC, 2017), and the NAVSTA Newport Federal Facility Agreement (FFA) (EPA, 1992). This document is considered a primary document in accordance with the FFA and has been prepared in accordance with the Navy *Principles and Procedures for Specifying, Monitoring and Enforcement of Land Use Controls and Other Post-ROD Actions* as agreed between United States Environmental Protection Agency (EPA) and the Department of Defense (DoD) (DoD, 2004).

2.0 BACKGROUND AND SITE DESCRIPTION

NAVSTA Newport is located approximately 25 miles south of Providence, Rhode Island, on Aquidneck Island within Narragansett Bay. The facility occupies approximately 1,000 acres, with portions of the facility located in the City of Newport and the Towns of Middletown, Portsmouth, and Jamestown, Rhode Island. The western boundary of NAVSTA Newport follows the western shoreline of Aquidneck Island for nearly six miles, facing the East Passage of Narragansett Bay. The major commands currently located at NAVSTA Newport include the Surface Warfare Officers School Command, Naval Undersea Warfare Center, and Naval War College. Research, development, and training are the primary activities at NAVSTA Newport. NAVSTA Newport was formerly known as the Naval Education and Training Center (NETC), established in the 1940s during World War II. NAVSTA Newport is an active military training facility and is expected to remain active for the foreseeable future.

In 1989, the EPA placed NETC/NAVSTA Newport on the National Priorities List (NPL). Environmental investigations and remedial efforts at NAVSTA Newport are funded under the Navy's Environmental Restoration (ER) Program per an FFA between the Navy, EPA, and Rhode Island Department of Environmental Management (RIDEM).

Tank Farm 1 is an approximately 50-acre former fuel storage and distribution area that is located in the northern portion of the NAVSTA Newport facility within close proximity to Narragansett Bay (Figure 1). Tank Farm 1 is located in the Melville section of Portsmouth, Rhode Island. Tank Farm 1 consists of two 2.56- million gallon partially aboveground storage tanks (ASTs) (Tanks 9 and 10), six 1.12-million gallon capacity underground storage tanks (USTs) (Tanks 13 through 18), the Ethyl Blending Plant (EBP), and associated support utilities (including transformer vaults), roadways, and piping systems (Figure 2). Two 2.35-million gallon ASTs (Tanks 11 and 12) were decommissioned and dismantled in 2012. Underground petroleum distribution piping connects the USTs to the former Fuel Loading Area, located approximately 1,000 feet to the northwest of Tank Farm 1. Tank Farm 1 is bordered by railroad tracks and the former Fuel Loading Area (the Melville area) to the west, Melville Pond to the north, the Melville Public Fishing and Camping Area to the north and east, an electrical substation to the south and vacant Navy land to the south. Tank Farm 2 is located approximately 200 feet to the southeast of the site.

DU 1-1, which is defined as soil associated with the EBP (includes the EBP and associated previously designated areas of concern (AOCs) TF1-004, TF1-005, and TF1-018), is an approximately 1.4-acre area in the southeast portion of Tank Farm 1. DU 1-1 is surrounded by

Tanks 17 and 18 to the north, Tanks 9 and 10 to the west, a wooded area and Pump House 49 to the south, and a forested area to the east. DU 1-2 and DU 1-3, which are both less than 0.05 acres, are located in the central portion of Tank Farm 1. DU 1-2, which is defined as soil associated with Transformer Vault 2 (TV2), is located southeast of Tank 16 and DU 1-3, which is defined as soil associated with Transformer Vault 3 (TV3), is located southwest of Tank 13. The approximate DU 1-1, 1-2, and 1-3 areas indicated above are updated quantities from what was described in the ROD (NAVFAC, 2016) and are based on the outcome of a soil pre-design investigation, which is discussed in greater detail below.

Tank Farm 1 is enclosed along the perimeter with a security fence that restricts public access. The site has been inactive since the termination of Defense Logistics Agency (DLA) Energy fuel storage and distribution operations in 1998, aside from the occasional environmental-related activity performed by Navy and DLA Energy contractors and general non-recurrent landscaping activities. Tank Farm 1 is also used by Department of Defense (DoD) personnel for deer hunting during portions of the year.

Contaminants in soil were identified during past environmental assessments at DUs 1-1, 1-2, and 1-3 and were attributed to previous activities within each area. Contaminants in soil at DU 1-1 are likely attributable to former operations at the EBP, such as engine idling, operation of the heating system at the plant, use of lubricants, etc. Contaminants in soil at DU 1-2 and DU 1-3 are attributed to historical releases of polychlorinated biphenyl (PCB)-containing oils adjacent to Transformer Vaults 2 and 3.

As described in the ROD, a Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) action is required because the human health risk assessment (HHRA) determined that there is unacceptable human health risk associated with concentrations of metals and polycyclic aromatic hydrocarbons (PAHs) in surface soil at DU 1-1 under a potential future residential or other unrestricted use of the site. Additionally, the ecological risk assessment (ERA) identified a potential risk to insectivorous receptors based on exposure to PCBs (specifically, Aroclor 1260) in surface soil at DU 1-2 and DU 1-3. Current and potential future exposures to surface and subsurface soil at DU 1-2 and DU 1-3 did not result in an unacceptable human health risk; however, PCB levels in surface soil at DU 1-2 and DU 1-3 do exceed EPA guidance risk-based PCB standards for unrestricted use. There is inaccessible soil under structures at each of the three Decision Units that will be assessed if the buildings are demolished. No assessment of contamination inside these structures was conducted; therefore, any demolition would be conducted so as not to pose a risk to human health or the environment (NAVFAC, 2016).

The Selected Remedy as presented in the ROD for DUs 1-1, 1-2, and 1-3 at Tank Farm 1, includes the following components (NAVFAC, 2016):

- Limited soil excavation and off-site disposal will remove surface soils exceeding Industrial Remedial Goals (RGs) (including RIDEM GA Leachability Criteria) for DU 1-1 and allow for industrial and restricted recreational use.
- Limited soil excavation and off-site disposal will remove surface soils exceeding the Industrial and Ecological RGs (including RIDEM GA Leachability Criteria) for DU 1-2 and 1-3 and allow for industrial and restricted recreational use.
- Land use controls (LUCs) will be established to prevent residential and other unrestricted use to address soil that will remain above Residential RGs at DU 1-1, 1-2, and 1-3.
- For DU 1-1, because there is only a thin layer of soil overlying bedrock at DU 1-1, it is likely that little to no soil is present below the Ethyl Blending Plant (EBP) foundation. However, as a conservative measure, LUCs are required for the EBP structure footprint to prevent access to soil, if it exists, below the building.
- For DU 1-2 and DU 1-3, LUCs are required for the Transformer Vaults 2 and 3 (TV2 and TV3) structure footprints to prevent access to soil below the buildings, since it has not been assessed.

If the EBP (DU 1-1), TV2 (DU 1-2), and/or TV3 (DU 1-3) foundations are demolished in the future, the presence or absence of soil beneath the buildings will be assessed and if soil is present, it will be remediated, if necessary, to meet Industrial RGs for DU 1-1 and the Industrial and Ecological RGs for DU 1-2 and DU 1-3. If and when TV2 and/or TV3 are demolished in the future, the demolition will meet Toxic Substances Control Act (TSCA) (15 U.S.C. §§ 2601 et seq.) protectiveness standards so as not to create a threat of release to the environment.

Because the remedy will result in hazardous substances, pollutants, or contaminants remaining on site in excess of levels that allow for unlimited use and unrestricted exposure (UU/UE), five-year reviews will be conducted to ensure that the Selected Remedy is protective of human health and the environment.

Consistent with the ROD, a soil pre-design investigation (PDI) was conducted in 2016 to further refine the extent of surface soils exceeding RGs within DU 1-1, DU 1-2, and DU 1-3. The results of the soil PDI are documented in the Final Soil Pre-Design Investigation Report, which is included as

an appendix to the Remedial Design Work Plan (RDWP) (Resolution, 2017). The PDI consisted of sequential surface soil sampling with laboratory analysis and comparison of the analytical results to RGs. Based on the PDI results, the LUC boundaries for DU 1-1, 1-2, and 1-3 were refined and expanded from the estimated areas identified in the ROD. The final LUC boundaries were determined based on comparison of the soil data to the Residential RGs and with the agency's input to provide a conservative boundary around identified Residential RG exceedances. The LUC boundaries for DU 1-1, 1-2, and 1-3 also define the overall DU boundaries as depicted on Figures 2 through 5. Based on the Soil PDI results, the area and volume of surface soil at DU 1-1 requiring excavation and off-site disposal to meet Industrial RGs has expanded significantly. This expanded DU 1-1 surface soil excavation boundary was determined through several rounds of step out soil sampling with comparison of the results to the Industrial RGs for DU 1-1, until all Industrial RG exceedances were bounded by samples that did not exceed Industrial RGs. The areas requiring excavation and off-site disposal to meet Industrial and Ecological RGs for DU 1-2 and DU 1-3 were also refined based on PDI sampling and comparison of the results to the Industrial and Ecological RGs for DU 1-2 and DU 1-3. The area and volume of surface soil requiring excavation from DU 1-2 and DU 1-3 did not change significantly from the ROD estimates. The refined/expanded LUC boundaries for all three DUs and the refined surface soil excavation boundaries for DU 1-2 and 1-3 were considered a non-significant change, since they do not result in a substantial cost increase. An Explanation of Significant Differences (ESD) to the ROD was issued in 2017 to document the significant change, which is the expanded excavation area at DU 1-1 and the associated increased cost of the remedy (NAVFAC, 2017).

Under this Selected Remedy, potential unacceptable human and ecological exposures to contaminated surface soil at DU 1-1, DU 1-2, and DU 1-3 will be eliminated through the combination of limited soil excavation and off-site disposal and LUCs. Implementation of this remedy will allow for continued industrial and restricted recreational use, which is consistent with the anticipated future uses for the site.

3.0 LAND USE CONTROLS

LUCs are implemented at sites where contaminants are left in place at levels that do not allow for unlimited use and unrestricted exposure. The LUCs ensure that any remaining contaminants do not pose an unacceptable risk to human health or the environment. LUCs can consist of institutional controls and/or engineering controls. Institutional controls, such as restrictions, notifications, etc., are typically legal documents in the form of deed restrictions, easements, and restrictive covenants. In the case of an active military base, they can consist of base instructions, notations on installation land use plans, or similar instruments. In the form of legal documents, the institutional controls will run with the land. Engineering controls are typically barriers, such as asphalt, buildings, or fencing.

The ROD (NAVFAC, 2016) requires LUCs, including institutional controls and engineering controls, as components of the selected remedy for DU 1-1, DU 1-2 and DU 1-3 at Tank Farm 1 to control or restrict certain types of property uses. The LUCs included in the selected remedy will be maintained until concentrations of chemicals of concern (COCs) have been reduced to levels that allow for unlimited use and unrestricted exposure. The ROD estimated the areas over which the LUCs would apply; however, these areas were further refined and expanded during the soil PDI as documented in the Final Soil Pre-Design Investigation Report, which is included as an appendix to the RDWP (Resolution, 2017). The DU 1-1 LUC Area is presented on Figure 3. The DU 1-2 LUC Area is presented on Figure 4. The DU 1-3 LUC Area is presented on Figure 5.

The following LUC performance objectives for DU 1-1, DU 1-2 and DU 1-3 are required by the ROD:

- Maintain the EBP, TV2, and TV3 structure foundations within the DUs to prevent exposure to any soil that may underlie the foundations that has not been assessed.
- Prevent residential or unrestricted recreational use of the DUs.
- Institute requirements for proper management of excavated soil as part of any future construction and maintenance activities at the DUs
- Establish inspection requirements and conduct LUC compliance inspections to verify the continued maintenance of LUCs until the cleanup levels have been achieved.

If the existing structures (EBP, TV2, and TV3) at DUs 1-1, 1-2, and 1-3 are demolished, the underlying soil would need to be assessed and remediated, if needed, consistent with the remedy. If and when TV2 and/or TV3 are demolished in the future, the demolition will meet Toxic Substances Control Act (TSCA) (15 U.S.C. §§ 2601 et seq.) protectiveness standards so as not to

create a threat of release to the environment. At that time, modification of the LUCs will be required. If proposed land use changes in the future and uses other than industrial/commercial-type activities are expected, additional remedial approaches may be required. Any modification to LUCs will be conducted in accordance with provisions in the DUs 1-1, 1-2, and 1-3 LUC RD, CERCLA, and the National Contingency Plan (NCP).

Institutional controls and engineering controls will be implemented to ensure that the above LUC performance objectives are met. The LUCs established for these decision units include the set of restrictions defined below. Following EPA and RIDEM approval of this LUC RD, the restrictions will be implemented on the site property to ensure the LUC performance objectives are met.

The following activities and uses are inconsistent with the LUC performance objectives and are prohibited:

- Excavation or other intrusive use of the ground that disturbs soil without prior authorization from NAVFAC MIDLANT Environmental (includes demolition, digging, drilling, plowing, planting, cultivating, or construction of buildings or other structures).
- Disturbance of the EBP, TV2, and TV3 structure foundations without prior authorization from NAVFAC MIDLANT Environmental.
- Demolition of TV2 and/or TV3 without meeting Toxic Substances Control Act (TSCA) (15 U.S.C. §§ 2601 et seq.) protectiveness standards so as not to create a threat of release to the environment.
- Any residential or unrestricted recreational uses.
- Any use or activity that would improperly interfere with the implementation, effectiveness, integrity, operation, or maintenance of the required remedy components, including the structure foundations, to ensure that the remedy remains effective and protective of human health and the environment.

The following activities and uses are consistent with the LUC performance objectives and will be allowed within DU 1-1, DU 1-2, and DU 1-3:

- Continued industrial use, authorized maintenance activities (includes mowing, plowing, brush clearing), and restricted recreational use (limited to hunting).

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- Installation and maintenance of warning signs conforming to NAVSTA Newport warning sign standards.
 - LUC inspections conducted per this LUC RD.
 - Any environmental investigations and/or remedial actions conducted in accordance with an approved work plan.
 - Installation of any other systems to ensure that the remedial action remains effective and is protective of human health and the environment.

In accordance with COMMANDER, NAVY REGION (COMNAVREG) MIDLANT INSTRUCTION 11011.11A (Navy, 2011) and activities in accordance with NAVSTA NEWPORT INSTRUCTION (NAVASTANPTINST) 5090.15C dated 18 May 2015 (or subsequent revisions) (Appendix A), site approval is required for actions that affect or may affect facilities or land located on Navy-controlled land holdings. The site approval process includes determining if the proposed action is compatible with Environmental Restoration LUCs, and requires NAVFAC MIDLANT Environmental to identify all environmental compliance requirements. The NAVSTA Newport Installation Restoration (IR) Program Manager will provide notice and coordinate project review with the EPA and RIDEM for projects that could impact the remedy. Based on the outcome of this coordination, the IR Program Manager will provide guidance for projects to ensure consistency with the site remedy. The IR Program Manager will provide specific requirements for the project, detail waste management procedures, and establish standards for protecting remedial infrastructure and restoration of the project site.

Implementation actions to ensure that the LUC performance objectives are met are discussed in the following section. Section 4.0 also defines the required notifications and authorizations, and the roles and responsibilities for implementing the actions.

4.0 LAND USE CONTROL IMPLEMENTATION ACTIONS

Pursuant to the ROD, the Navy is responsible for implementing, inspecting, reporting, and enforcing the institutional and engineering controls in accordance with this LUC RD. For purposes of the LUC RD, the term "implementation actions" means the action to implement, operate, maintain, and enforce the LUC component of the remedy. The Navy will perform all short- and long-term implementation actions at DU 1-1, DU 1-2, and DU 1-3 per *The Principles and Procedures for Specifying, Monitoring and Enforcement of Land Use Controls and Other Post-ROD Actions (DoD, 2004)*, the FFA, the ROD, the ESD and applicable Navy directives. The Navy may, in the future, delegate or transfer authority to conduct these actions to another entity as part of property transfer agreements (i.e. deed).

The Navy will submit a copy of this document to the land record offices of the Town of Portsmouth, Rhode Island, and a listing of LUCs that have been imposed, for the limited purpose of providing public notice of the environmental conditions of, and limitations on, the use of property. Additionally, copies of this document will be provided to EPA and the RIDEM.

As set forth in this LUC RD, the following implementation actions will be performed to ensure that the LUC objectives are met in accordance with the FFA and ROD:

1. Prepare a map(s) defining Site 7 – Tank Farm 1 DU 1-1, 1-2, and 1-3 LUC Area boundaries. Depict on this map(s) the location and boundary of Site 7 – Tank Farm 1 DU 1-1, 1-2, 1-3 and the extent of the area over which the LUCs will apply, which is the entire DU boundaries, as shown on Figure 3, Figure 4 and Figure 5. Indicate where LUCs have been imposed and annotate LUCs in the Navy Geographical Information System (known as NIRIS) database and LUC Tracking Module for the installation, and follow LUC-related procedures pertaining to ground-disturbing activity and changes in land use per NAVSTANPTINST 5090.15C, dated 18 May 2015 (or subsequent revisions), and Commander, Navy Region, Mid-Atlantic Instruction 5090.2, *Installation Restoration; Land Use Controls at Navy Region, Mid-Atlantic Installations; Establishment and Maintenance*, as amended. The Navy will notify EPA and the RIDEM in advance of any changes to these internal procedural instructions that would impact the effectiveness of the LUCs. These instructions are provided in Appendix A.
2. Provide copies of Figure 3, Figure 4 and Figure 5 to EPA and the RIDEM.
3. Monitor compliance with the LUCs. LUC monitoring will be conducted by the Navy to verify LUCs are being properly implemented and that the LUC objectives are being met. The LUC

monitoring results will be provided to the EPA Region 1 and RIDEM as part of an annual report. The LUC implementation actions to be conducted as part of the monitoring are summarized in Table 1. LUC compliance inspections will be conducted on an annual basis, unless the frequency is reduced by agreement with the Navy, EPA, and RIDEM. A checklist to be used during LUC inspections is provided in Appendix B.

4. Report to and notify regulatory agencies. The notification requirements are summarized in Table 1 and include the following:
 - a. Notify EPA Region 1 and RIDEM 45 days in advance of any proposed change in land use that would require modifications to the LUCs to remain consistent with the LUC performance objectives or the selected remedy. The notice shall describe how the LUCs will be changed and mechanisms by which the new LUCs will be implemented to maintain the protectiveness of the remedy.
 - b. Notify EPA Region 1 and RIDEM by telephone and by e-mail as soon as practicable, but within 10 working days, after discovery of any activity that is inconsistent with the LUC objectives or use restrictions, or any other action that may interfere with the effectiveness of the LUCs. Notify EPA Region 1 and RIDEM regarding how the breach will be or has been addressed within 10 days of sending EPA Region 1 and RIDEM the discovery notification of the breach activity. For more complex breach situations, a telephone call within this 10-day period among Navy, EPA, and RIDEM to discuss options for addressing the breach will be considered sufficient to meet this notification requirement. Furthermore, any activity that is inconsistent with the LUC objectives or use restrictions, or any other actions that may interfere with the effectiveness of the LUCs will be addressed as soon as practicable, but in no case will the process be initiated later than 10 days after the Navy becomes aware of the breach.

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- c. Notify EPA Region 1 and RIDEM in writing at least six months prior to an anticipated transfer or sale of the property subject to LUCs out of Navy custody and control, including any federal-to-federal transfer, so that EPA Region 1 and RIDEM can be involved in discussion with the Navy on the appropriate provisions to be included in the transfer terms and conveyance documents to maintain the effective LUCs. If it is not possible for the Navy to notify EPA Region 1 and RIDEM at least 6 months prior, the Navy will make this notification as soon as possible, but no later than 60 days before the transfer or sale of any property subject to LUCs. The Navy shall provide a copy of the executed deed or transfer documents to EPA Region 1 and RIDEM.
 - d. Submit reports of annual monitoring. LUC compliance monitoring shall be conducted annually and the results submitted to the EPA Region 1 and RIDEM. The annual reports will be used in preparation of the Five-Year Review to evaluate the effectiveness of the remedy. The LUCs portion of the annual report will evaluate the status of the LUCs and how any LUC deficiencies or inconsistent uses have been addressed. The LUCs portion of the annual report will also address whether Navy instructions remain current in regards to LUC enforcement, and whether use of the property has conformed with such restrictions and controls.
5. Obtain EPA Region 1 concurrence, in consultation with RIDEM, prior to modifying or terminating the LUCs or implementation actions. The Navy or other entity shall seek prior concurrence from EPA Region 1, in consultation with RIDEM, at least 14 days before taking any anticipated action that may disrupt the effectiveness of the LUCs or before taking any action that may alter or negate the need for LUCs.
 6. Evaluate effectiveness of LUCs as part of each Five-Year Review. Site remedy reviews are required by CERCLA and the NCP as specified in the ROD for DU 1-1, DU 1-2, DU 1-3 at Tank Farm 1. The last Five-Year Review for NAVSTA Newport was completed in December 2014. The next Five-Year Review will be completed in December 2019 and will include a discussion of the Tank Farm 1 remedy. Five-Year Reviews will be submitted to EPA Region 1 and RIDEM for review, per the FFA.

Should the Navy fail to complete the required LUC implementation action, EPA and/or RIDEM shall notify the Navy Remedial Project Manager and seek immediate action. If the Navy fails to complete a required LUC implementation action within a reasonable time of being notified, EPA and/or RIDEM may notify the Deputy Assistant Secretary of the Navy (Environment), who will ensure that necessary action is taken.

Should a subsequent owner of or a third party at DU 1-1, DU 1-2, or DU 1-3 fail to complete a required LUC implementation action, for which such owner or party is responsible, EPA, RIDEM, and the Navy will consult on the appropriate enforcement action. If after the property has been transferred, the Navy fails to complete a required LUC implementation for which it is responsible, EPA and/or RIDEM may notify the Navy Remedial Project Manager, or designated project manager per Section VIII in the NAVSTA Newport FFA. If necessary, EPA and/or RIDEM may notify the Deputy Assistant Secretary of the Navy (Environment), who will ensure that necessary corrective action is taken.

5.0 REFERENCES

Department of Defense (DoD), 2004. Memorandum: Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) Record of Decision (ROD) and Post-ROD Policy, Attachment 1 Navy Principles and Procedures for Specifying, Monitoring and Enforcement of Land Use Controls and Other Post-ROD Actions, January 16, 2004.

Department of the Navy (Navy), 2003. COMNAVREG MIDLANT. Instruction 5090.2. Installation Restoration; Land Use Controls at Navy Region, Mid-Atlantic Installations; Establishment and Maintenance. May 27, 2003.

Department of the Navy (Navy), 2011. COMNAVREG MIDLANT Instruction 11011.11A. Site Approval Requirements and Process. February 14, 2011.

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Naval Facilities Engineering Command (NAVFAC), 2017. Final Explanation of Significant Differences, Site 7 – Tank Farm 1, Decision Units 1-1, 1-2, 1-3 (OU 13), Naval Station Newport, Rhode Island, Expansion of the Decision Unit 1-1 Soil Excavation Area Footprint. Signed by US Navy on February 22, 2017 and USEPA on March 29, 2017, with RIDEM Concurrence Letter dated March 22, 2017.

Resolution Consultants (Resolution), 2017. Remedial Design Work Plan, Decision Units 1-1, 1-2, and 1-3 at Site 7 – Tank Farm 1, Operable Unit 13, Naval Station Newport, Portsmouth, Rhode Island. January 27, 2017.

United States Environmental Protection Agency (EPA) Region I and the State of Rhode Island (RIDEM) and the United States Department of the Navy. 1992. *Federal Facility Agreement Under CERCLA 120, In the Matter of the U.S. Department of the Navy, Naval Education and Training Center, Newport, Rhode Island and Naval Undersea Warfare Center, Newport, Rhode Island*. March 1992.

United States Environmental Protection Agency (EPA), 2013. Sample Federal Facility Land Use Control ROD Checklist with Suggested Language (LUC Checklist), OSWER Directive 9355.6-12, January 4, 2013.

Tables

TABLE 1
SUMMARY OF LAND USE CONTROL IMPLEMENTATION ACTIONS
DECISION UNITS 1-1, 1-2 1-3 AT TANK FARM 1 (SITE 7) LUC RD
NAVSTA NEWPORT
PORTSMOUTH, RHODE ISLAND


LUC REQUIREMENT/DESCRIPTION	FREQUENCY
INSTITUTIONAL CONTROLS	
Issue Final LUC RD.	Once
Submit to the Land Record Offices of the Town of Portsmouth, Rhode Island, a copy of this Land Use Control document, for the limited purpose of providing public notice of environmental conditions of and limitations on the use of property.	Once
Incorporate LUC boundaries into Navy's NIRIS database and LUC Tracker System.	Once
Conduct annual LUC compliance inspections.	Annually
Issue Annual Inspection Reports to EPA and RIDEM.	Annually
ENGINEERING CONTROLS	
Install and maintain warning signs within the LUC boundaries of DU 1-1, DU 1-2, and DU 1-3 to prevent residential and unrestricted recreational use and ensure awareness of LUCs associated with EBP, TV2, and TV3 structure foundations.	Installation - one time Maintenance - as necessary
Conduct inspections of the EBP, TV2, and TV3 structure foundations. Report any repair requirements to the appropriate responsible party.	Annually
Issue inspection report	Annually
NOTIFICATION REQUIREMENTS	
The Navy will notify EPA Region I and RIDEM in advance of any proposed changes in land use that would require modifications to the LUCs to remain consistent with the LUC objectives or the selected remedy.	Per event, 45 days in advance
The Navy will notify EPA Region I and RIDEM by telephone and by email after discovery of any activity that is inconsistent with the LUC objectives or use restrictions, or any other action that may interfere with the effectiveness of the LUCs.	Per event, as soon as practicable but within 10 days of discovery

TABLE 1
SUMMARY OF LAND USE CONTROL IMPLEMENTATION ACTIONS
DECISION UNITS 1-1, 1-2 1-3 AT TANK FARM 1 (SITE 7) LUC RD
NAVSTA NEWPORT
PORTSMOUTH, RHODE ISLAND

LUC REQUIREMENT/DESCRIPTION	FREQUENCY
The Navy will notify EPA Region I and RIDEM regarding how the discovered activity that is inconsistent with the LUC objectives or use restrictions, or any other action that may interfere with the effectiveness of the LUCs, will be or has been addressed. For more complex inconsistencies or potential interferences, a telephone call within this 10-day period among Navy, EPA, and RIDEM to discuss options for addressing the breach will be considered sufficient to meet this notification requirement. Furthermore, any activity that is inconsistent with the LUC objectives or use restrictions, or any other action that may interfere with the effectiveness of the LUCs will be addressed as soon as practicable, but in no case will the process be initiated later than 10 days after the Navy becomes aware of the breach.	Per event, as soon as practicable but within 10 days after notice of breach
Navy will notify EPA and RIDEM if the TV structures are to be demolished or the foundations of the EBP is to be removed.	Per event, 45 days in advance
The Navy will notify EPA Region I and RIDEM in writing of any anticipated transfer or sale of the property subject to LUCs out of Navy custody and control, including any federal-to-federal transfer. If it is not possible for the Navy to notify EPA Region I and RIDEM at least 6 months prior, the Navy will make this notification as soon as possible, but no later than 60 days before the transfer or sale of any property subject to LUCs.	Per event, typical 6-month advance notice, but not less than 60 days

Figures






Drawn: JB 05/31/2017


Approved: MK 05/31/2017

Project #: 60268619

Map Location



N



0 1,200 2,400

Scale in Feet

FIGURE 1

REGIONAL LOCATION

LAND USE CONTROL REMEDIAL DESIGN

TANK FARM 1 - SITE 7

NAVSTA NEWPORT, RHODE ISLAND

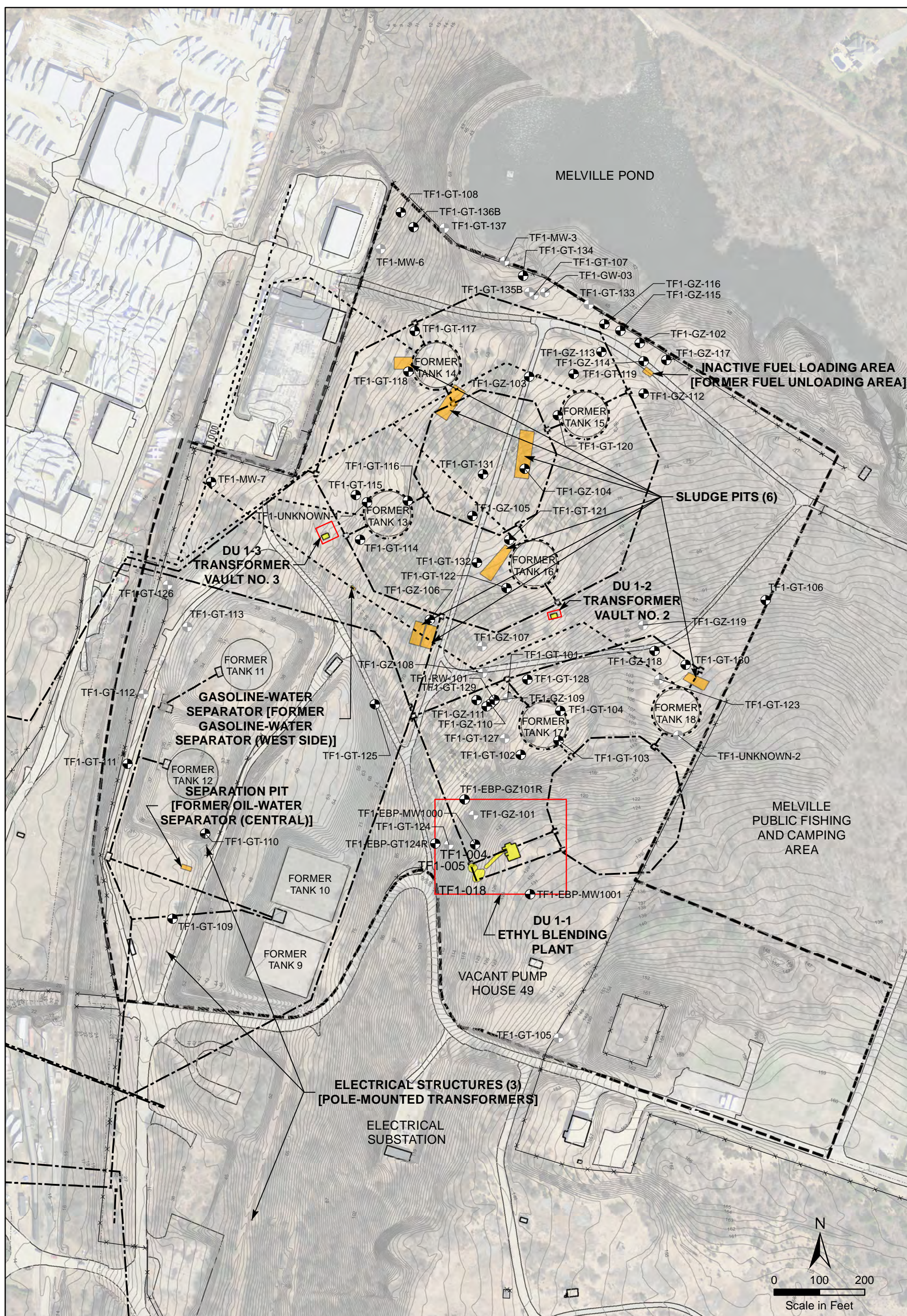
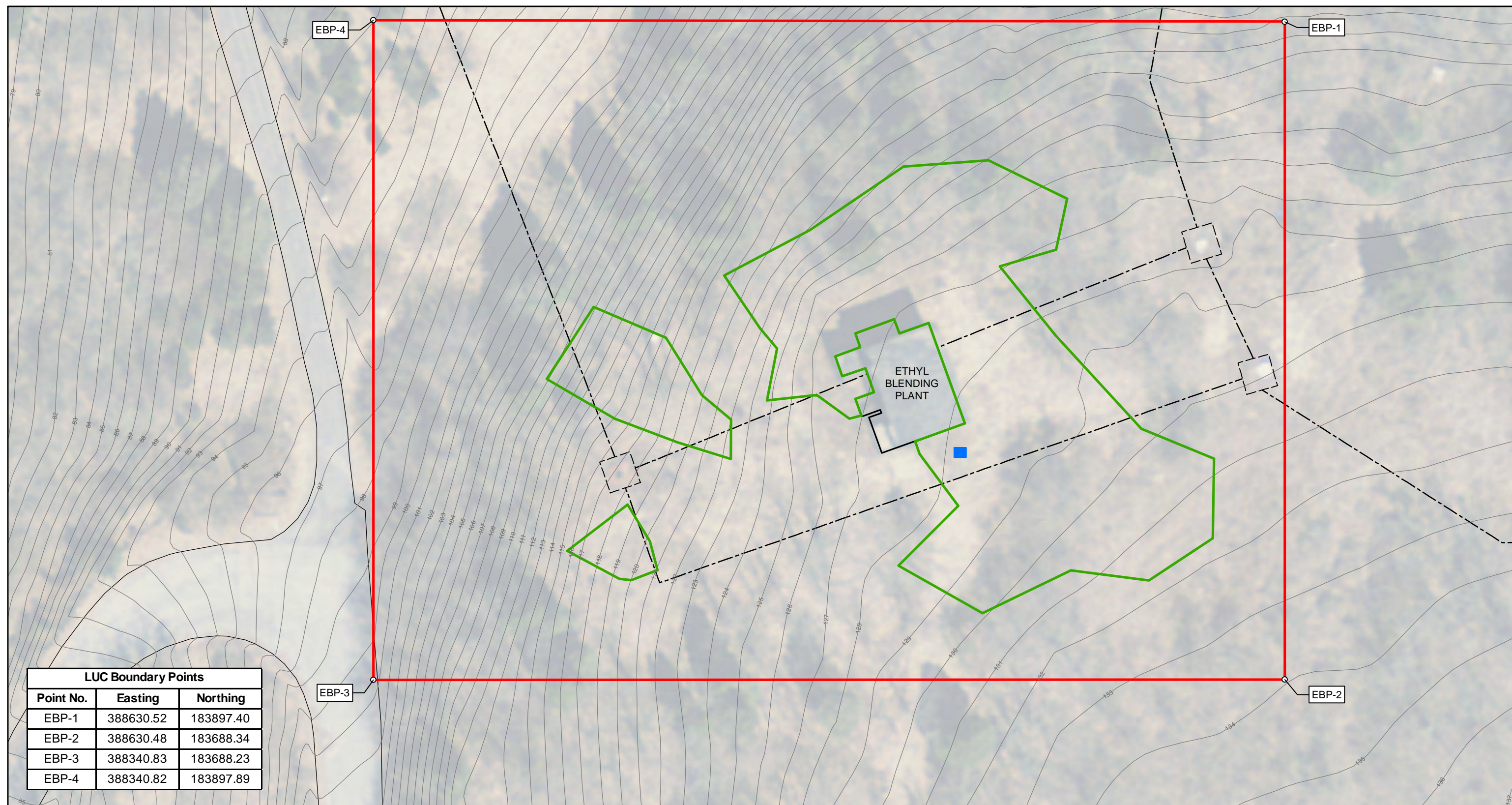


FIGURE 2
TANK FARM 1 LAYOUT
LAND USE CONTROL REMEDIAL DESIGN
TANK FARM 1 - SITE 7
DECISION UNITS 1-1, 1-2, 1-3
NAVSTA NEWPORT, RHODE ISLAND



LUC Boundary Points		
Point No.	Easting	Northing
EBP-1	388630.52	183897.40
EBP-2	388630.48	183688.34
EBP-3	388340.83	183688.23
EBP-4	388340.82	183897.89



Drawn: JB 05/31/2017

Approved: NO 05/31/2017

Project #: 60427977

Legend

- Extent of Land Use Control Area and Decision Unit Boundary
- Anticipated Extent of Surface Soil Excavation
- Topographic Contour Line (NAVD 88)
- Petroleum Distribution (Remaining)
- Ring Drain/BSW Drainage (Remaining)
- Warning Sign Location

Notes

1. Within the Land Use Control Area (red boundary), following completion of the surface soil removal (green boundary), soil will remain at levels that do not allow for residential or unrestricted recreational use outside of the Ethyl Blending Plant footprint. Beneath the Ethyl Blending Plant foundation, the presence of soil and levels of soil contamination (if soil is present) are not known.
2. The green boundaries represent the locations where surface soil will be removed as part of the planned soil remedial action to meet Industrial Remedial Goals.

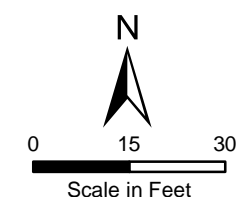
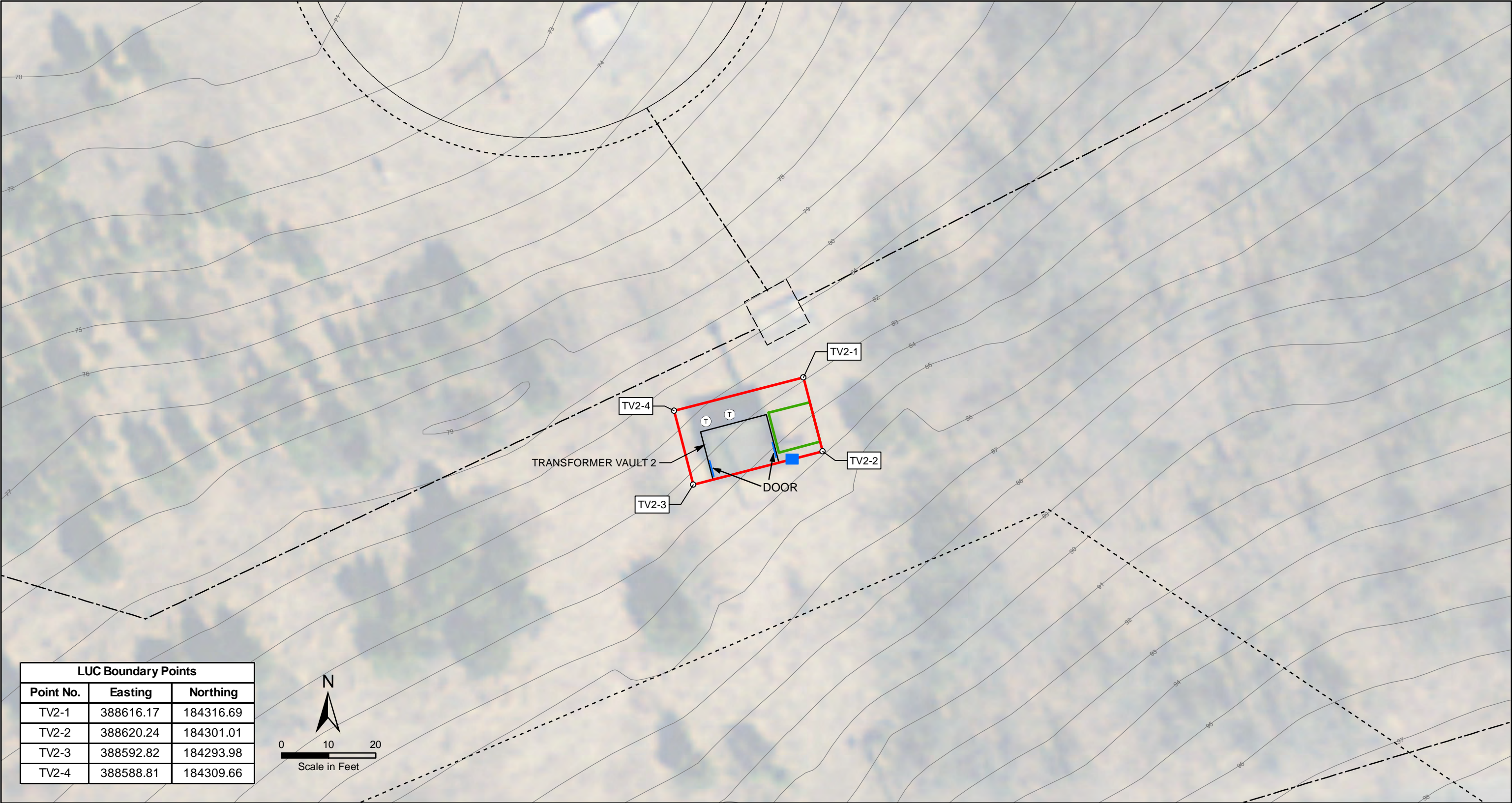
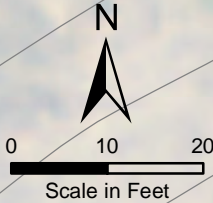



FIGURE 3
LAND USE CONTROL AREA
DECISION UNIT 1-1
ETHYL BLENDING PLANT
LAND USE CONTROL REMEDIAL DESIGN
TANK FARM 1 (SITE 7)
NAVSTA NEWPORT, RHODE ISLAND










LUC Boundary Points		
Point No.	Easting	Northing
TV2-1	388616.17	184316.69
TV2-2	388620.24	184301.01
TV2-3	388592.82	184293.98
TV2-4	388588.81	184309.66



		
Drawn:	JB	05/31/2017
Approved:	NO	05/31/2017
Project #:	60266436	

Legend

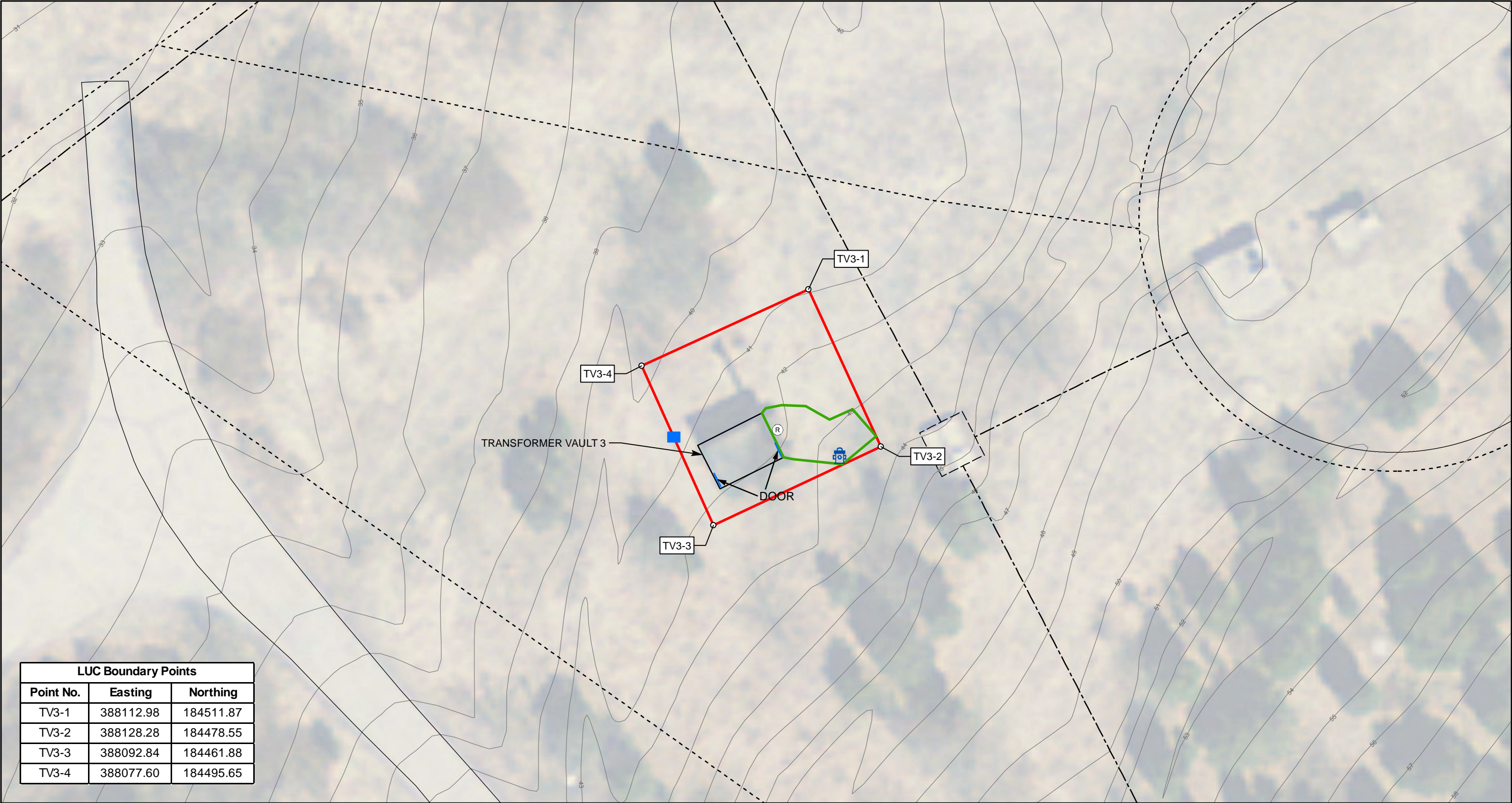
-  Extent of Land Use Control Area and Decision Unit Boundary
-  Anticipated Extent of Surface Soil Excavation
-  Transformer
-  Topographic Contour Line (NAVD 88)

-  Petroleum Distribution (Remaining)
-  Ring Drain/BSW Drainage (Remaining)
-  Warning Sign Location


Notes






1. Within the Land Use Control Area (red boundary), following completion of the surface soil removal (green boundary), soil will remain at levels that do not allow for residential or unrestricted recreational use outside of the Transformer Vault 2 footprint. Beneath the Transformer Vault 2 foundation, the level of soil contamination is not known.
2. The green boundaries represent the locations where surface soil will be removed as part of the planned soil remedial action to meet Ecological and Industrial Remedial Goals.





FIGURE 4
LAND USE CONTROL AREA
DECISION UNIT 1-2
TRANSFORMER VAULT 2
LAND USE CONTROL REMEDIAL DESIGN
TANK FARM 1 (SITE 7)
NAVSTA NEWPORT, RHODE ISLAND



LUC Boundary Points		
Point No.	Easting	Northing
TV3-1	388112.98	184511.87
TV3-2	388128.28	184478.55
TV3-3	388092.84	184461.88
TV3-4	388077.60	184495.65


Drawn: JB 05/31/2017
Approved: NO 05/31/2017
Project #: 60266436

Legend
 Extent of Land Use Control Area and Decision Unit Boundary
 Anticipated Extent of Surface Soil Excavation
 Former Rectifier Location
 Topographic Contour Line (NAVD 88)
 Petroleum Distribution (Remaining)

 Ring Drain/BSW Drainage (Remaining)
 Hydrant Location
 Warning Sign Location
0 10 20
Scale in Feet


Notes
1. Within the Land Use Control Area (red boundary), following completion of the surface soil removal (green boundary), soil will remain at levels that do not allow for residential or unrestricted recreational use outside of the Transformer Vault 3 footprint. Beneath the Transformer Vault 3 foundation, the level of soil contamination is not known.
2. The green boundaries represent the locations where surface soil will be removed as part of the planned soil remedial action to meet Ecological Remedial Goals.

FIGURE 5
LAND USE CONTROL AREA
DECISION UNIT 1-3
TRANSFORMER VAULT 3
LAND USE CONTROL REMEDIAL DESIGN
TANK FARM 1 (SITE 7)
NAVSTA NEWPORT, RHODE ISLAND

Appendix A

LUC Instructions

Appendix A.1

Commander, Navy Region, Mid-Atlantic Instruction 5090.2, Installation Restoration;
Land Use Controls at Navy Region, Mid-Atlantic Installations; Establishment and
Maintenance



DEPARTMENT OF THE NAVY

COMMANDER
NAVY REGION, MID-ATLANTIC
6506 HAMPTON BLVD.
NORFOLK, VA 23508-1273

IN REPLY REFER TO:

COMNAVREG MIDLANT
INST 5090.2
REG ENG/Code 90

27 MAY 2003

COMNAVREG MIDLANT INSTRUCTION 5090.2

Subj: INSTALLATION RESTORATION; LAND USE CONTROLS AT NAVY
REGION, MID-ATLANTIC INSTALLATIONS; ESTABLISHMENT AND
MAINTENANCE

Ref: (a) DUSD (ES/CL) memo of 17 Jan 01
(b) Navy Environmental Policy Memo 99-02
(c) Navy-Marine Corps Installation Restoration Manual
(COMNAVFACEGCOM Feb 97)
(d) OPNAVINST 5090.1 Series
(e) COMNAVREGMIDLANTINST 3120.1
(f) JAGMAN
(g) NAVREGS

1. Purpose. This instruction prescribes procedures for establishing and maintaining land use controls at sites remediated under the Navy Installation Restoration Program (IRP) and otherwise, and assigns mission, functions, and tasks necessary to successful management and maintenance of land use controls. References (a) through (d) pertain.

2. Applicability. This instruction applies to installations under the custody, control, and command of Commander, Navy Region, Mid-Atlantic (COMNAVREG MIDLANT). Reference (e) pertains.

3. Background

a. Land use controls restrict use of, and may also limit access to, real property at which contamination is allowed to remain in place. Land use controls, which are of two types, engineered controls¹ and institutional controls, are placed on IRP (and other) sites to protect human health and the environment until such time, if ever, as they are no longer needed. Engineered controls include fences, signs, and other physical means of regulating access to and use of real property. Institutional controls are legal and administrative restrictions on land use, such as notations on installation land use plans,

¹"Engineering controls" is also used in some texts to refer to engineered controls. For purposes of this instruction these terms are synonymous.

27 MAY 2003

notices recorded in public land records, and periodic site inspections.

b. Land use controls, which may be of indefinite duration, must be reviewed at least every 5 years for effectiveness. They are, or are part of, a clean-up remedy accepted by or approved for COMNAVREG MIDLANT by the Regional Engineer, as set forth, for example, in the Record of Decision² for an IRP site. After a Record of Decision or other decision document is finalized, terms and conditions for establishing and maintaining land use controls will be developed and memorialized in a Remedial Design (or other document), in the manner Atlantic Division, Naval Facilities Engineering Command (LANTNAVFACENGCOM) (or other Navy authority) shall recommend. Land use controls may be modified as site conditions change.

c. To be effective, land use controls must be timely imposed, and thereafter maintained for as long as necessary. Long-term maintenance of land use controls requires vigilance, diligence, cooperation, and funding. COMNAVREG MIDLANT, recognizing its role in protecting human health and the environment, has determined that a comprehensive, coordinated approach to land use controls is required for its installations. This approach requires close cooperation between the Regional Engineer, the Regional Program Manager for Facilities and Environmental programs, and LANTNAVFACENGCOM, the IRP program manager.

4. Action. The following action is directed:

a. Regional Engineer

(1) Execute Records of Decision, decision documents, and other land use control related documents on behalf of COMNAVREG MIDLANT.

(a) In so doing, coordinate closely with LANTNAVFACENGCOM, to ensure that operational flexibility, accomplishment of core mission requirements, combat readiness, security, force protection, and cost are taken into consideration in remedy selection.

² Records of Decision are issued under authority of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). Land use controls are also imposed in clean-ups carried out under the Resource Conservation and Recovery Act (RCRA).

(2) Implement institutional controls in the manner and within the time prescribed in Records of Decision and other decision documents.

(a) In so doing, program and budget for the cost of maintaining land use controls the responsibility for which has transferred from LANTNAVFACENGCOM to COMNAVREG MIDLANT.

(3) Integrate land use controls into site approval processes, dig permits, infrastructure plans, installation maps, and geographic information systems, and, in the name of COMNAVREG MIDLANT, deny permission to conduct ground-disturbing activity at, make use of, or develop sites in a manner inconsistent with approved land use controls.

(a) In so doing, implement procedures and safeguards to withhold or deny site approval until it has been verified that no land use controls exist, or that the proposed use or development is consistent with existing land use controls, references (c) and (d), and other legal authorities. The site approval process is a key element of the regional program to protect human health and the environment through maintenance of land use controls.

(4) Establish procedures to conduct and budget for site inspections, other monitoring of land use controls, and 5-year reviews, and to notify and interact with regulators.

(5) Retain Records of Decision and other land use control documents for all sites to which this instruction applies.

(6) Inform Installation Commanders, Program Managers, and tenant activities at least annually, of land use controls at their installations and installations at which they conduct operations. This may be accomplished by inviting these parties' attention to a list of land use controls published on the Regional Engineer's website.

(7) Include information on land use controls and compliance obligations in statements of work prepared for facility support contracts and other contracts involving use of or ground-disturbing activity at IRP sites and other locations where land use controls have been imposed.

27 MAY 2003

(8) Take appropriate steps to preclude ground-disturbing activity by Navy public works personnel (or contractors) that is inconsistent with approved land use controls.

b. Installation Commanders and Regional Program Managers

(1) Observe, adhere to, and publicize to their organizations (and, in the case of installation commanders, tenant activities), land use controls imposed on their installations and installations at which they conduct operations. This is especially important for Navy Family Housing and Morale, Welfare, and Recreation³ facilities and activities.

(2) Take appropriate steps to preclude land use, site development, and ground-disturbing activity inconsistent with approved land use controls. This includes, but is not limited to, following site approval procedures, adhering to dig permit requirements, and incorporating land use controls into infrastructure plans and host/tenant support agreements.

(a) Commanders of installations not served by Environmental Compliance Departments of the Regional Environmental Group perform the functions assigned to the Regional Engineer in subparagraphs a (1)-(8) of this paragraph.

(3) Include information on land use controls and compliance obligations in statements of work prepared for contracts involving use of or ground-disturbing activity at IRP sites and other locations subject to land use controls.

(4) Report to the Regional Engineer all activity inconsistent with known land use controls and conditions, e.g., failure of an engineered control, which may affect human health or the environment. The Regional Engineer, in turn, will inform the cognizant LANTNAVFACENGCOM Remedial Program Manager.

c. Tenant Activities of COMNAVREG MIDLANT Installations

(1) Observe, adhere to, and publicize to their organizations, land use controls imposed on installations at which they conduct operations.

³The Support Services Program Manager will develop a standard clause for Non-Appropriated Fund Instrumentality contracts that requires contractors to comply with land use controls.

27 MAY 2003

(2) Take appropriate steps to preclude land use, site development, and ground-disturbing activity inconsistent with approved land use controls. This includes, but is not limited to, consulting the Regional Engineer organization during the site approval process and when applying for dig permits.

(3) Include information on land use controls and compliance obligations in statements of work prepared for contracts involving use of or ground disturbing activity at IRP sites and other locations subject to land use controls.

(4) Report to the Regional Engineer all activity inconsistent with known land use controls and conditions, e.g., failure of an engineered control, which may affect human health or the environment. The Regional Engineer, in turn, will inform the cognizant LANTNAVFACENGCOM Remedial Program Manager.

5. Coordination with LANTNAVFACENGCOM

a. Per reference (d), COMNAVFACENGCOM is responsible for the IRP. LANTNAVFACENGCOM is the NAVFAC component that serves the installations to which this instruction applies. In carrying out its program responsibilities LANTNAVFACENGCOM works with Regional Engineer staff to:

(1) Consider operational flexibility, security, force protection, combat readiness, and maintenance costs in selecting land use controls;

(2) Develop land use controls, including but not limited to:

(a) Engineered and institutional controls;

(b) Remedial Designs and other similar land use control documents; and

(c) 5-year reviews and other long-term management;

(3) Report to the Regional Engineer activity, including performance of contracts supervised by Resident Officers in Charge of Construction, inconsistent with known land use controls, or conditions, e.g., failure of an engineered control, that may affect human health or the environment; and

27 MAY 2003

(4) Include appropriate clauses in contracts for work to be performed on or affecting sites to which land use controls apply.

6. Oversight. Land use, site development, and ground-disturbing activity inconsistent with applicable land use controls may result in risk to human health and the environment, and may give rise to civil and criminal liability under Federal law. Thus, incidents of this nature should be reported per reference (d), investigated per reference (f), and when warranted, appropriate action should be taken to address personal accountability. Regional Program Managers, Installation Commanders, Commanding Officers, and Officers in Charge should work closely with the Regional Engineer to cooperate with regulatory agencies per reference (g). The Regional Engineer and the Regional Environmental Coordinator staff should be notified promptly of the commencement of any enforcement action related to breach or neglect of land use controls.



G. E. EICHERT
Chief of Staff

Distribution: www.cnrma.navy.mil

Appendix A.2

Commander, Navy Region, Mid-Atlantic Instruction 11011.11A, Site Approval
Process



DEPARTMENT OF THE NAVY

COMMANDER
NAVY REGION, MID-ATLANTIC
1510 GILBERT ST.
NORFOLK, VA 23511-2737

IN REPLY REFER TO:

COMNAVREGMIDLANTINST 11011.11A

N4/ARE

14 FEB 2011

COMNAVREG MIDLANT INSTRUCTION 11011.11A

From: Commander, Navy Region, Mid-Atlantic

Subj: SITE APPROVAL REQUIREMENTS AND PROCESS

Ref: (a) OPNAVINST 11000.16A w/CH-1
(b) NAVFACINST 11010.45
(c) COMNAVREGMIDLANTINST 5090.2
(d) NOSSA INST 8020.22
(e) NAVFAC BMS B-2.1.7-B-2.1.10 Site Approval Processes

Encl: (1) Sample Site Approval Request Letter
(2) NAVFAC Site Approval Request Form (NAVFAC 11010/31)

1. Purpose. Provide guidance for process and preparation of site approvals in the Navy Region, Mid-Atlantic, Area of Responsibility (AOR).

2. Cancellation. COMNAVREGMIDLANTINST 11011.11.

3. Background. Per reference (a), Regional Commanders are responsible for management of land and facilities in their Regions. Reference (a) stipulates planning documentation will be prepared and submitted, per reference (b). The site approval process is the review of proposed actions that affect or may affect facilities or land located on Navy-controlled land holdings. The site approval review process includes determining if the proposed action is compatible with Mission requirements, natural and man-made constraints, land use, Installation architecture and appearance, Installation master plan or Shore Infrastructure Plan (SIP), sustainable development principles, Environmental Restoration Land Use Controls per reference (c), and all applicable laws and regulations.

4. Policy. Site approval is not required for routine maintenance and routine repair of facilities. Per reference (b), site approval is required for all actions sited on Navy-controlled land holdings, regardless of funding source, for the following situations:

a. Any project or real estate action that will have explosives safety criteria implications associated with ammunitions and explosives, per reference (d).

b. Any project or real estate action that affects, or is affected by, airfield safety criteria.

c. Any project or real estate action that creates or is proposed to be in an area of electromagnetic illumination, or involves electromagnetic transmission.

d. Any project, real estate action, or proposed use of property that proposes changing the functional use of a facility or the land use or physical layout of an area.

e. Any proposed use of property, permanent or temporary, that involves placing or removing a facility or structure.

5. Implementation. The Installation Commanding Officer (ICO) will be responsible for implementation of the site approval process under references (b) and (c). The Installation Public Works Department (PWD) will manage this process on behalf of the ICO. The ICO will be the Approving Official but may choose to delegate this authority to the Public Works Officer.

a. Activities initiating a proposed action will submit a request for site approval cover letter, enclosure (1), signed by the unit commander, or their designated representative, to the responsible ICO (Attn: Public Works Officer). Note: Request Cover Letters are not required if the PWD is self-generating the site approval. The Activity and the PWD Planner will work together to prepare Section A of the Naval Facilities Engineering Command (NAVFAC) Site Approval Request Form, enclosure (2). The PWD will follow the process identified in references (d) and (e). In situations where the Activity does not specify a particular Installation for the site, the request for site approval shall be submitted to the Assistant Regional Engineer (ARE), COMNAVREG MIDLANT. At the discretion of the ARE, site approvals may require review and endorsement by the ARE.

b. Naval Facilities Engineering Command, Mid-Atlantic (NAVFAC MIDLANT) Environmental will identify all of the environmental and National Environmental Protection Act (NEPA) compliance requirements as described in reference (e). In some situations, permits may be required, or an Environmental Assessment (EA) may be required. Final site approval will not be granted until all required NEPA and Clean Air Act (CAA) documentation is completed.

c. In some cases, NEPA documentation is still required when site approval is not (e.g., repair of historic facilities).

d. The PWD will process, track, and maintain a record of all Activity site approvals except as otherwise described in reference (d) for explosive safety site approvals.

e. Relocatable facilities (trailers) require separate endorsement via ARE (OPNAVINST 11010.33C) in addition to the site approval process.

f. Actions involving explosive safety, electromagnetic radiation, waivers to airfield safety criteria, or small arms range surface danger zones require additional action and approval through the applicable authority: Naval Ordnance Safety and Security Activity (NOSSA); Department of Defense Explosive Safety Board (DDESB); Space and Naval Warfare Systems Command (SPAWAR); Naval Air Systems Command (NAVAIR); Commander, Navy Installations Command (CNIC); or Chief of Naval Operations (CNO). These reviews will be coordinated by the PWD Planner. Because of the approval chain, allow additional time (1 to 8 months) for processing.

6. Site approvals are granted based upon the information in the request. The site approval becomes invalid if any of the conditions in the original request materially change.

7. Forms. NAVFAC Site Approval Request Form 11010/31 is supplied by N4, Regional Engineer, as enclosure (2) of this instruction. More detail on the site approval process and Site Approval checklists can be found in references (d) and (e). Environmental Checklists vary by State and can be provided by the Public Works Department at the Installation.


G. S. WOMACK
Chief of Staff

Distribution: Electronic only, via CNIC Web site/COMNAVREG
MIDLANT: <https://g2.cnic.navy.mil/cnichome/pages/cnichome.aspx>

COMNAVREGMIDLANTINST 11011.11A
1 4 FEB 2011

SAMPLE SITE APPROVAL REQUEST LETTER

11011
Code

From: (Activity Head)
To: Commanding Officer, -----
(Attn: Public Works Officer)

Subj: REQUEST FOR SITE APPROVAL FOR _____

Ref: (a) NAVFACINST 11010.45

Encl: (1) NAVFAC Site Approval Request Form (NAVFAC 11010/31)

1. Per reference (a), enclosure (1) is forwarded for your review/approval. Requesting site approval to (briefly explain).
2. In addition to completing site approval, request the required National Environmental Policy Act (NEPA) documentation be initiated and completed to allow this project to be executed.
3. My point of contact for this project is (name) at (commercial and DSN phone number), or (E-Mail-----).

SIGNATURE
BLOCK

SAMPLE

Enclosure (1)

REQUEST FOR PROJECT SITE APPROVAL/EXPLOSIVES SAFETY CERTIFICATION NAVFAC 11010/31 (NAVFAC MIDLANT REV. 8-2009)

PART I

DIRECTIONS IN NAVFACINST 11010.45

SECTION A – INSTALLATION SUBMISSION

1. To:			2. From:		
3. Program Year:	4. Cost (\$000):	5. Type Funding	6. Activity UIC	7. Date:	
8. Category Code and Project Title:				9. Project Number	
10. Type of Project: <input type="checkbox"/> New Construction <input type="checkbox"/> Relocation of Structure <input type="checkbox"/> Other <input type="checkbox"/> Change Use <input type="checkbox"/> Maintenance and/or Repairs <input type="checkbox"/> Addition to Existing Facility <input type="checkbox"/> Repair by Replacement <input type="checkbox"/> Major Modification to Existing Facility <input type="checkbox"/> Demolition			11. Type of Request: <input type="checkbox"/> Airfield Safety Site Approval <input type="checkbox"/> Explosives Site/Safety Certification <input type="checkbox"/> EMR Site Approval <input type="checkbox"/> Re-submittal or Standard Site Approval (No Safety Criteria Involved)		
12. Project Description					
13. _____ Sets of Project Maps Attached			14. _____ Sets Part II Division(s) _____ Attached		

SECTION B –NAVFAC REVIEW

1. Name/Code/Phone No. of Reviewer/E-Mail Address:			2. Date Received:		
3. Evaluation:					
4. Safety Review Requested: (check appropriate box(es)) <input type="checkbox"/> NOSSA <input type="checkbox"/> DDESB <input type="checkbox"/> SPAWAR <input type="checkbox"/> NAVAIR <input type="checkbox"/> CNO <input type="checkbox"/> OTHER					5. Date Forwarded:
6. Date of Safety Certification: NOSSA DDESB SPAWAR NAVAIR CNO OTHER					

SECTION C – FINAL SITE APPROVAL ACTION

1. Approvals: <input type="checkbox"/> Site Approved <input type="checkbox"/> Site Disapproved <input type="checkbox"/> Deferred/Returned <input type="checkbox"/> Explosives Safety Certification Approved <input type="checkbox"/> Explosives Safety Certification DISAPPROVED <input type="checkbox"/> Interim Construction Waiver Approved		2. Certification Identification:	
		3. Remarks	
4. Other Approvals <input type="checkbox"/> Airfield Safety Waiver Required Required <input type="checkbox"/> Final Explosives Safety Review Required		5. Approving Official:	
		6. Date:	

Appendix A.3

Commander, Navy Region, Naval Station Newport Instruction 5090.15C, Land Use
Restrictions for Installation Restoration (IR) Sites and Other Contaminated
Properties



DEPARTMENT OF THE NAVY

NAVAL STATION NEWPORT
690 PEARY STREET
NEWPORT, RHODE ISLAND 02841-1522

IN REPLY REFER TO:

NAVSTANPTINST 5090.15C

ENV

MAY 18 2015

NAVAL STATION (NAVSTA) NEWPORT INSTRUCTION 5090.15C

From: Commanding Officer, Naval Station Newport

Subj: LAND USE RESTRICTIONS FOR INSTALLATION RESTORATION (IR)
SITES AND OTHER CONTAMINATED PROPERTIES

- Ref:
- (a) OPNAVINST 5090.1D, Chapter 42
 - (b) OPNAVINST 5100.23G CH-1 Navy Safety and Occupational Health Program Manual
 - (c) COMNAVREGMIDLANTINST 5090.2 Installation Restoration; Land Use Controls at Navy Region Mid-Atlantic Installations; Establishment and Maintenance Dated 27 May 2003
 - (d) OSHA 29 CFR 1910.120 HAZWOPER
 - (e) Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA)
 - (f) Toxic Substances Control Act (TSCA)
 - (g) Superfund Amendments and Reauthorization Act of 1986 (SARA)
 - (h) Resource Conservation and Recovery Act (RCRA)
 - (i) Rhode Island Rules and Regulations for the Investigation and Remediation of Hazardous Material Releases
 - (j) Federal Facility Agreement of 1992
 - (k) Site 9 Land Use Control Remedial Design (LUCRD) for the Old Fire Fighting Training Area Operable Unit 3 of February 2012
 - (l) Site 8 Land Use Control (LUC) Remedial Design (RD) for the Naval Undersea Systems Center (NUSC) Disposal Area of October 2013
 - (m) Site 1 Land Use Control (LUC) Remedial Design (RD) for McAllister Point Landfill Operable Unit 1 of February 2012
 - (n) Site 12 Land Use Control (LUC) Remedial Design (RD) for Decision Unit 4-1 at Tank Farm 4 Operable Unit 11 of April 16, 2014
 - (o) Site 13 Land Use Control (LUC) Remedial Design (RD) for Decision Unit 5-1 at Tank Farm 5 Operable Unit 2 of July 23, 2014

- (p) Site 19 Land Use Control (LUC) Remedial Design (RD) for the Former Derecktor Shipyard Operable Units 5 and 12 of 2015
- (q) Site 17 Land Use Control (LUC) Remedial Design (RD) for the Gould island Operable Unit 6 of 2015
- (r) NAVSTA Newport Instruction 5090.27A Land Use Restrictions at the Former Building 86 CHI and Building 355 CP, dated 27 August 2012
- (s) COMNAVREGMIDLANTINST 11011.11 Site Approval Process dated 01 Dec 2004
- (t) COMNAVREGMIDLANTINST 11011.12A Obtaining Work Permits dated 08 May 2003

Encl: (1) IR Site Map for Naval Station Newport
(2) Former Building 86 CHI and Building 355 CP Areas
(3) Former Building 70 Midway Site
(4) Gate 2 Phytoremediation Area

1. Purpose. This instruction establishes a local uniform policy and requirements at NAVSTA Newport to restrict land use, site development, and "activities that disturb soil, sediment, groundwater, or surface water" at the IR sites in enclosure (1), the other contaminated or LUC restricted property in enclosures (3) through (4) or the buried asbestos debris sites at Stillwater Basin, Evans Hall Bldg. 1284 CHI, and Ney Hall Bldg. 292 CP to achieve the following:

a. Protect the remedies in place from damage. Remedies typically consist of engineered soil cover systems as well as asphalt and concrete surfaces.

b. Protect human health and the environment from exposure to chemicals in the soil, groundwater, surface water, and air.

c. Enforce the LUCs for the sites in references (k) through (r) as agreed to by the United States Environmental Protection Agency (EPA), Rhode Island Department of Environmental Management (RIDEM), and the Navy.

d. Control access and use of IR sites and other contaminated or LUC restricted property that do not yet have a LUC because the investigations are ongoing.

2. Cancellation. NAVSTA NEWPORT/LOCAL AREA RI COORDINST 5090.15B.

3. Applicability. This instruction is applicable to all Navy departments, tenant commands, contractors, visitors, and personnel at NAVSTA Newport.

4. Background. NAVSTA Newport was placed on the National Priorities List in 1989 due to the contamination present at the IR sites shown in enclosure (1). A Federal Facility Agreement (FFA), reference (j), was executed in 1992 between the Navy, EPA, and the DEM to facilitate the restoration of these sites. The FFA specifies how the IR sites are studied and cleaned-up. The regulatory framework for studying and cleaning-up IR sites is specified in detail in references (d) through (i). The IR sites include: Tank Farms 1, 2, 3, 4 and 5; the former Derecktor Shipyard (Onshore & Offshore); McAllister Point Landfill; Gould Island (Onshore & Offshore); Coddington Cove Rubble Fill; Carr Point Storage Area; Carr Point Shooting Range; various Coddington Cove Buried Asbestos Debris Sites shown in enclosure (1) on page 14 (Nimitz Hall Bldg. 1358 CP, Nimitz Field, Bishops Rock, Prichard Field North and South, Combat Training Pool Bldg. 1357 CP, and the Marine Detachment Bldg. 1112 CP; Naval Underwater System Center (NUSC) Disposal Area, and the Old Fire Fighting Training Area (OFFTA). A portion of the John H. Chafee Fitness Center is also part of the OFFTA IR site.

There are other contaminated and LUC restricted property at NAVSTA Newport. Polychlorinated biphenyl (PCB) contamination is present at Building 355 CP and the former Building 86 CHI. These buildings are being studied and cleaned up to satisfy the Toxic Substances Control Act. These 2 PCB contaminated properties are shown in enclosure (2) and the corresponding LUCs are documented in reference (t). Oil contamination and state- and federally-regulated hazardous substances are also present at former Building 70 Midway and Tank Farms 1, 2, 3, 4 and 5. The former Building 70 Midway site, which is shown in enclosure(3), is regulated under state Underground Storage Tank and Site Remediation Regulations, and will also be remediated to satisfy the requirements of the Toxic Substances Control Act. Portions of Tank Farms 1,2,3,4 and 5 are regulated under CERCLA and PCB contamination at Tank Farms 1, 2 and 3 is also being addressed to satisfy the requirements of TSCA. Arsenic contamination is present throughout NAVSTA Newport and is managed under a state approved Soil Management Plan. There is an arsenic phytoremediation area at Gate 2, which is shown in enclosure (4). In addition to the IR site described above as "various Coddington

Cove Buried Asbestos Debris Sites", buried asbestos debris has been found at Stillwater Basin, Evans Hall Bldg. 1284 CHI, and Ney Hall Bldg. 292 CP. Buried asbestos debris sites will be controlled through the following actions or requirements:

(a) Surface materials (building footprints, pavement and structural materials like geotextile layers and reinforced and artificial turf), 2 feet or more of clean soils or a combination of soil and other structural materials will be used to isolate asbestos from exposure. For example, the causeway portion of the Bishop Rock recreation area is covered with a geotextile and 1 foot of gravel;

(b) Remedial actions will be implemented, likely LUCs, to manage buried asbestos;

(c) An Asbestos Hazard Reduction Plan will be prepared and approved by the Environmental Office prior to disturbing surface soils or materials ; and

(d) Contractors and government workers will stop work to determine if asbestos is present when building rubble is encountered at any construction or work site.

5. Definitions

a. Installation Restoration (IR) Site. An IR site is a property included in either the Installation Restoration or Military Munition Response Programs. These programs address contamination from a hazardous substance, pollutant, contaminant, and military munitions waste at active installations. Through these programs, the Navy complies with environmental cleanup laws, such as the Comprehensive Environmental Response, Compensation, and Liability Act, also known as the Superfund Act.

b. Land Use Controls (LUCs). Also known as "institutional controls," are defined broadly as legal measures that limit human exposure by restricting activity, use, and access to properties with residual contamination. LUCs can consist of institutional controls and/or physical/engineering controls. Institutional controls, such as restrictions, notifications, etc., are typically legal documents in the form of deed restrictions, easements, and restrictive covenants. In the case of an active military base, they can consist of base instructions, notations on installation land use plans, or similar instruments. In the form of legal documents, the institutional controls will run with

the land. Engineering controls are typically barriers, such as asphalt, buildings, or fencing.

c. Activities that Disturb Soil, Sediment, Groundwater or Surface Water. Any form of damage to remedial infrastructure, excavation, sediment removal, soil penetration, soil compaction, filling, change of topography, or change in land use. The definition includes: any action to dewater excavations; extraction, withdrawal or exposure of groundwater or surface water for discharge, consumption, or use in any way.

d. Polychlorinated Biphenyl (PCB). A PCB is a synthetic organic chemical compound widely used as dielectric and coolant fluids. PCB production was banned by Congress in 1979. According to the EPA, PCBs cause cancer in animals and are probable human carcinogens.

e. Change in land Use. A change in land use is any new commercial/industrial, recreational, or residential land use of the property not previously approved by the Environmental Office or restricted by an LUC. Examples include: a picnic or barbecue, construction of a new barracks, a training exercise, crane testing, equipment storage, and any real estate licenses, leases or transfers.

6. Action. The following actions are directed:

a. Commanding Officer

(1) Ensures written plans and procedures are in place to effectively manage contaminated properties in accordance with the state and Federal laws and regulations in references (d) through (i), as well as, Navy policy in references (a) through (c).

(2) Observes, adheres to, and enforces LUCs and other restrictions for contaminated properties.

(3) Takes appropriate steps to preclude land use, site development, and activities that disturb soil, sediment, groundwater or surface water in consistent with LUCs and other restrictions. This includes, but is not limited to Site Approvals, Work Permits, Dig safe Permits and incorporating LUCs and other restrictions into infrastructure plans and host/tenant support agreements.

b. NAVSTA Newport Departments, Tenant Commands & Contactors

(1) NAVSTA Newport departments, tenant commands, and contractors shall obtain prior approval from the NAVSTA Newport Environmental Office before proceeding with any activities that disturb soil, sediment, groundwater or surface water, or change the land use at IR sites and other contaminated or LUC restricted properties shown in enclosures (1) through (4) or buried asbestos debris sites at Stillwater Basin, Evans Hall Bldg. 1284 CHI, and Ney Hall Bldg. 292 CP. Requests for approval shall meet the following requirements:

(a) Requests shall be submitted to the Environmental Office at the earliest planning phase for any work or project and, at a minimum, 60 days in advance of the start.

(b) Requests shall include a description of the proposed work, a drawing showing the work area and a schedule or start date.

(2) NAVSTA Newport departments, tenant commands and contractors are prohibited from applying pesticides, herbicides and fungicides at IR sites and other contaminated or LUC restricted properties shown in enclosures (1) through (4).

(3) Obey posted instructions and warnings at contaminated properties to restrict access, give notice of LUC restrictions and hazard warnings.

(4) Prepare and submit an Asbestos Hazard Reduction Plan to the Environmental Office for approval prior to disturbing surface soils or materials at buried asbestos debris sites.

(5) Stop work to determine if asbestos is present when building rubble is encountered in subsurface soils at any construction or work site.

c. Environmental Office

(1) Processes requests from NAVSTA Newport departments, tenant commands, and contractors to perform activities that disturb soil, sediment, groundwater or surface water, or change the land use at IR sites and other contaminated or LUC restricted properties shown in enclosures (1) through (4) or buried asbestos debris sites at Stillwater Basin, Evans Hall Bldg. 1284 CHI, and Ney Hall Bldg. 292 CP.

(a) Coordinates the request with the EPA and RIDEM as appropriate.

(b) Coordinates the request with other NAVSTA departments and other Navy organizations as appropriate.

(c) Notifies the NAVSTA Newport department, tenant command, and contactor when a determination is complete.

(d) Specifies any requirements or conditions such as; waste management procedures, standards for protecting remedial infrastructure, restoration of the project site, safety, and personnel training.

(e) Processes requests for emergency work as expeditiously as possible.

(2) After notifying the Commanding Officer, reports to and notifies regulatory agencies.

(a) Notifies EPA Region 1 and the State of RI 45 days in advance of any proposed change in land use that would require modifications to the LUCs to remain consistent with the LUC performance objectives or the selected remedy. The notice shall describe how the LUCs will be changed and mechanisms by that the new LUCs will be implemented to maintain the protectiveness of the remedy.

(b) Notifies EPA Region 1 and the State of RI by telephone and by e-mail as soon as practicable, but within 5 working days, after discovery of any activity that is inconsistent with the LUC objectives or use restrictions, or any other action that may interfere with the effectiveness of the LUCs. Notifies EPA Region 1 and the State of RI regarding how the breach will be or has been addressed within 5 days of sending EPA Region 1 and the State of RI the discovery notification of the breach activity. For more complex breach situations, a telephone call within this 5-day period among Navy, EPA, and the State of RI to discuss options for addressing the breach will be considered sufficient to meet this notification requirement. Furthermore, any activity that is inconsistent with the LUC objectives or use restrictions, or any other actions that may interfere with the effectiveness of the LUCs will be addressed as soon as practicable, but in no case will the process be initiated later than 5 days after the Navy becomes aware of the breach. Immediate notification within 1 hour of discovery is required if

an imminent or substantial endangerment to human health or the environment exists.

(c) Notifies EPA Region 1 and the State of Rhode Island in writing at least six months prior to an anticipated transfer or sale of the property subject to LUCs out of Navy custody and control, including any federal-to-federal transfer, so that EPA Region 1 and the State of Rhode Island can be involved in discussion with the Navy on the appropriate provisions to be included in the transfer terms and conveyance documents to maintain effective LUCs. If it is not possible to notify EPA Region 1 and the State of Rhode Island at least 6 months prior, make this notification as soon as possible, but no later than 60 days before the transfer or sale of any property subject to LUCs. The Navy shall provide a copy of the executed deed or transfer documents to EPA Region 1 and the State of Rhode Island.

(3) Ensures signage is posted and maintained at contaminated properties to restrict access, give notice of LUC restrictions and hazard warnings.

(a) The posted temporary LUC restriction "No Fishing / Shellfishing" signs at Derecktor Shipyard and Gould Island offshore sites.

(b) The posted LUC restriction and hazard warning "No Unauthorized Access - Restricted Area - No Digging - Safety Hazard Present - For Additional Information Contact NAVSTA Environmental 841-7671" signs at various sites.

(4) Performs annual soil testing of the Gate 2 Phytoremediation Area and submits results to DEM.

(5) Reviews and updates this instruction as required.

d. Public Works

(1) Per reference (r), ensure the Project/Planning Checklist or equivalent form for site approvals evaluates the project for activities that disturb soil, sediment, groundwater or surface water, or change the land use at IR sites and other contaminated or LUC restricted properties shown in enclosures (1) through (4) or buried asbestos debris sites at Stillwater Basin, Evans Hall Bldg. 1284 CHI, and Ney Hall Bldg. 292 CP.

(2) Per reference (s), ensure the Work Permit or equivalent form for work not administered by Public Works evaluates the project for activities that disturb soil, sediment, groundwater or surface water or change the land use at IR sites and other contaminated or LUC restricted properties shown in enclosures (1) through (4) or buried asbestos debris sites at Stillwater Basin, Evans Hall Bldg. 1284 CHI, and Ney Hall Bldg. 292 CP. Work permits are required for all new construction, repair, and alteration of Commander Navy Region Mid-Atlantic controlled Class I or II property not administered by the Naval Facilities Engineering Command, Mid-Atlantic.

(3) Ensure site approvals and work permits are endorsed by the Environmental Director or a designated representative.

(4) Ensure prior approval is received from the NAVSTA Newport Environmental Office before proceeding with any activities that disturb soil, sediment, groundwater or surface water, or change the land use at IR sites and other contaminated or LUC restricted properties shown in enclosures (1) through (4) or buried asbestos debris sites at Stillwater Basin, Evans Hall Bldg. 1284 CHI, and Ney Hall Bldg. 292 CP. Requests for approval shall meet the requirements in paragraph 6(b).

(5) Prohibit the application of pesticides, herbicides, and fungicides at IR sites and other contaminated or LUC restricted properties shown in enclosures (1) through (4).

(6) Cut the grass twice a year at the Gate 2 phytoremediation area and remove all of grass clippings for offsite disposal at a licensed sanitary landfill or solid waste management facility.

(7) Prevent any unauthorized disturbance of the engineered cap that will be installed under Pier 2 as part of the Derecktor Shipyard remedy.

(8) Ensure no construction, restoration, alteration, or demolition of Piers 1 and 2 below the waterline or over the capped area without prior concurrence by EPA and DEM.

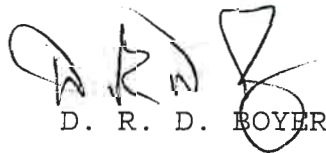
e. Security

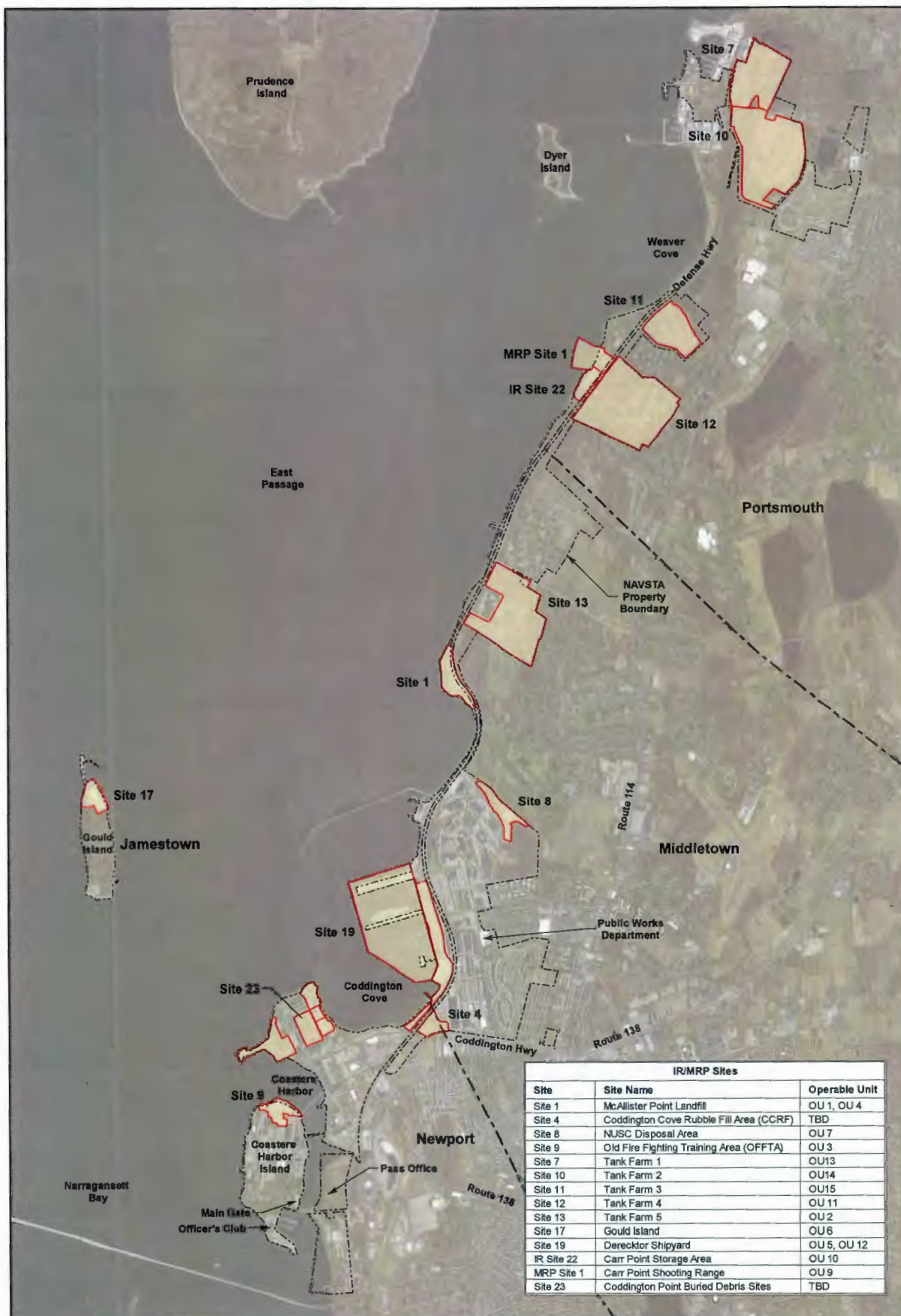
(1) Patrol, as necessary, the IR sites and other contaminated or LUC restricted properties shown in enclosures (1) through (4) or buried asbestos debris sites at Stillwater Basin, Evans Hall Bldg. 1284 CHI, and Ney Hall Bldg. 292 CP.


(2) Enforce no unauthorized access when posted.

(3) Enforce no fishing or shellfishing in the offshore areas of former Derecktor Shipyard and Gould Island until the CERCLA remedies are complete.

7. Oversight. Land use, site development, and activities that disturb soil, sediment, groundwater or surface water inconsistent with the procedures and requirements in this instruction may result in risk to human health and the environment, and may give rise to civil and criminal liability under Federal law. Thus incidents of this nature should be reported, investigated, and when warranted, appropriate action should be taken to address personal accountability.


D. R. D. BOYER




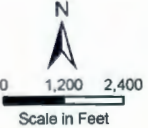


RESOLUTION CONSULTANTS

Drawn: JB 02/26/2015
Approved: MK 02/26/2015
Project #: 60268619

Map Location





Scale in Feet

SITE MAP

SITES AND STUDY AREAS
NAVSTA NEWPORT, RHODE ISLAND



Narragansett
Bay

Defense Highway



Drawn: JB 02/26/2015
Approved: MK 02/26/2015
Project #: 60268619



SITE MAP

SITE 1 - McALLISTER POINT LANDFILL
OU1 AND OU4
NAVSTA NEWPORT, RHODE ISLAND

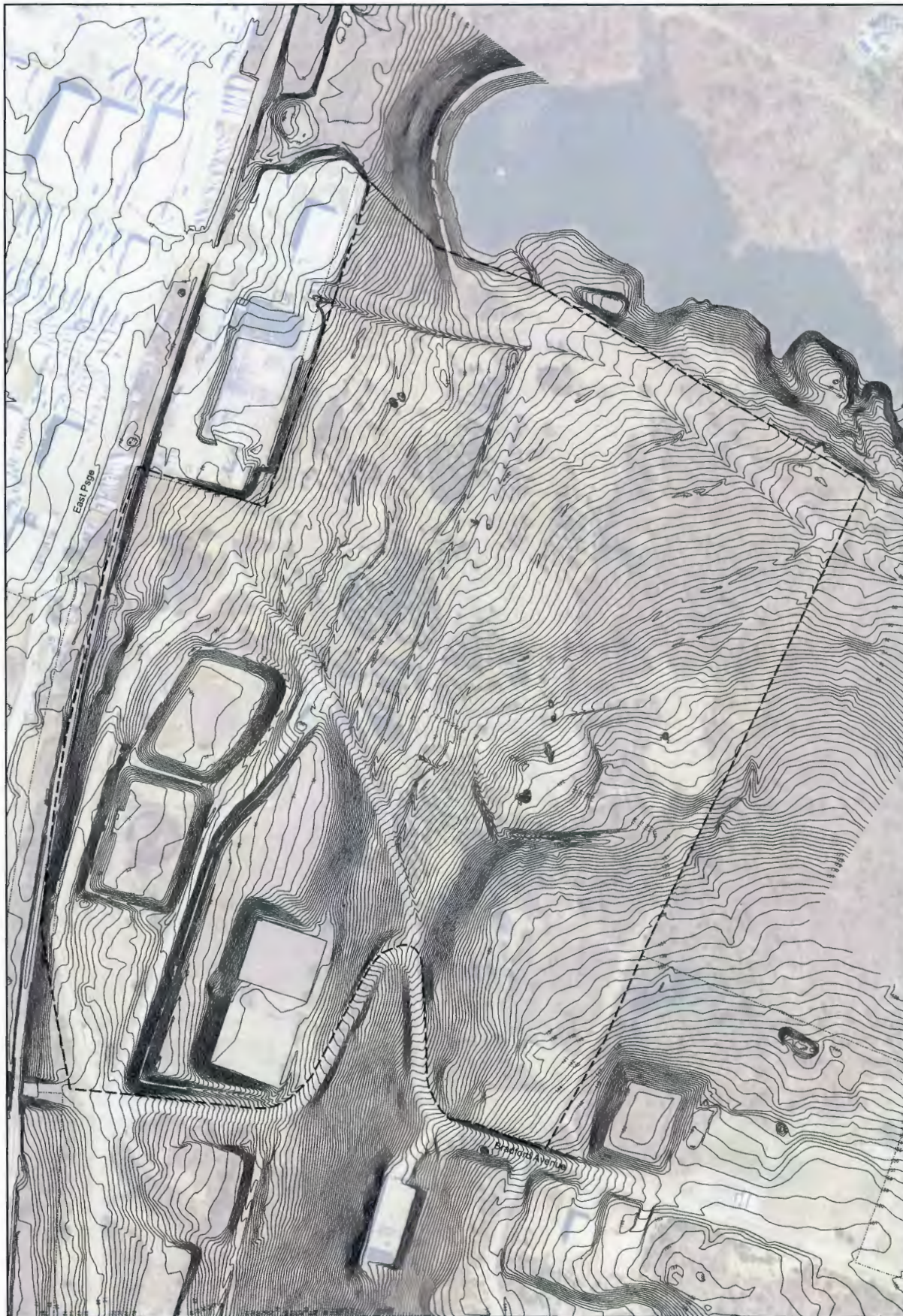


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Project #: 60268619



SITE MAP

SITE 4 - CODDINGTON COVE
RUBBLE FILL AREA
NAVSTA NEWPORT, RHODE ISLAND




Drawn: JB 02/26/2015
Approved: MK 02/26/2015
Project #: 60268619



SITE MAP

SITE 7 - TANK FARM 1
NAVSTA NEWPORT, RHODE ISLAND

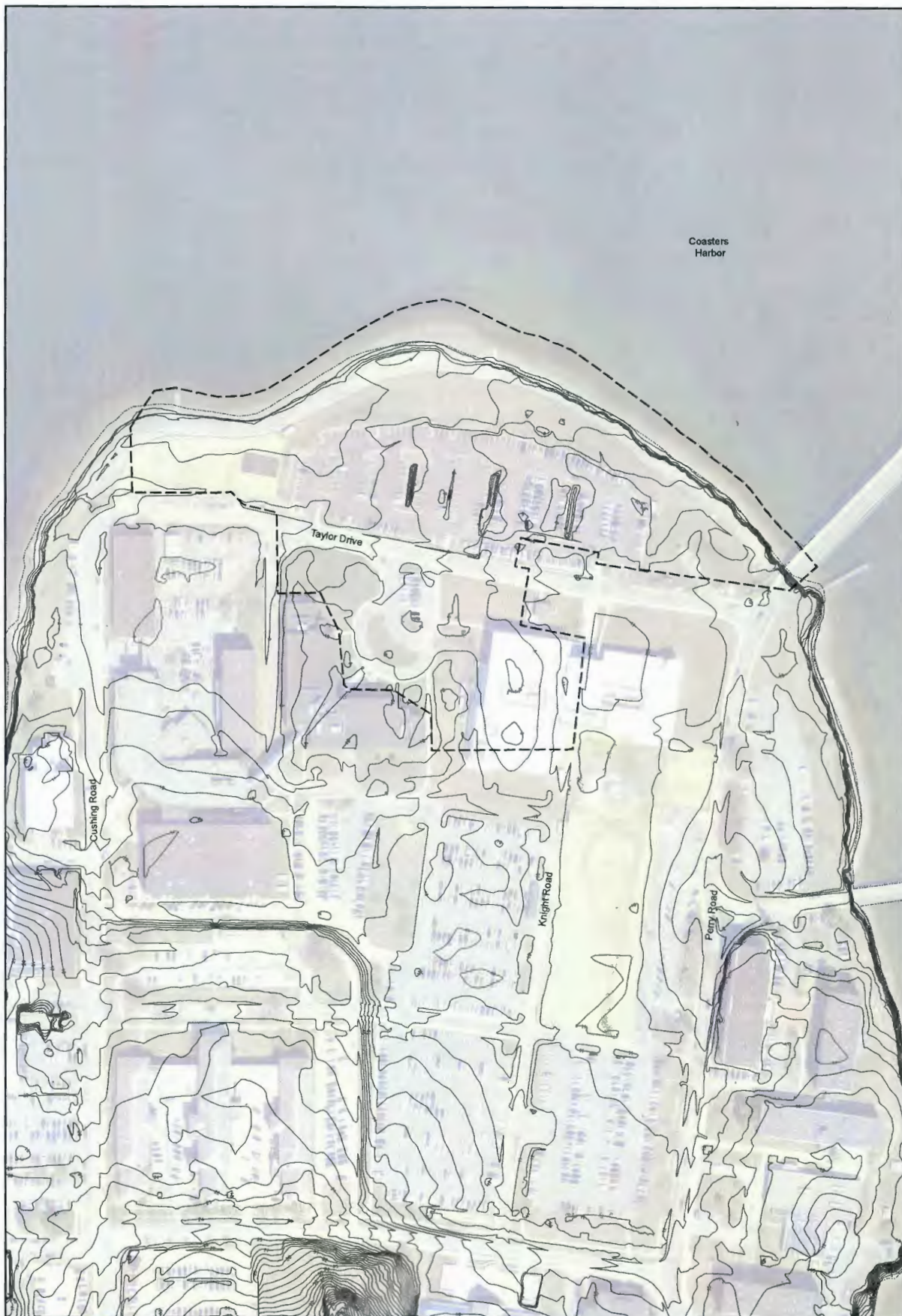



**RESOLUTION
CONSULTANTS**
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Approved: MK 02/27/2015
Project #: 60268619



SITE MAP

**SITE 8 – NUSC DISPOSAL AREA, OU 7
NAVSTA NEWPORT, RHODE ISLAND**



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 Project #: 60268619



SITE MAP

SITE 9 - OFFTA
 NAVSTA NEWPORT, RHODE ISLAND



Drawn: JB 02/26/2015
Approved: MK 02/26/2015
Project #: 60268619



SITE MAP

SITE 10 - TANK FARM 2
NAVSTA NEWPORT, RHODE ISLAND



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Project #: 60268619



SITE MAP

SITE 11 – TANK FARM 3
NAVSTA NEWPORT, RHODE ISLAND




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Approved: MK 02/26/2015
Project #: 60268619




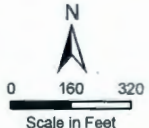
SITE MAP

SITE 12 - TANK FARM 4, OU 11
NAVSTA NEWPORT, RHODE ISLAND



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 RESOLUTION CONSULTANTS Drawn: JB 04/17/2015 Approved: MK 04/17/2015 Project #: 60268619	 Scale in Feet	SITE MAP SITE 17 – GOULD ISLAND ONSHORE AND OFFSHORE NAVSTA NEWPORT, RHODE ISLAND
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Drawn: JB 04/23/2015
 Approved: MK 04/23/2015
 Project #: 60268619

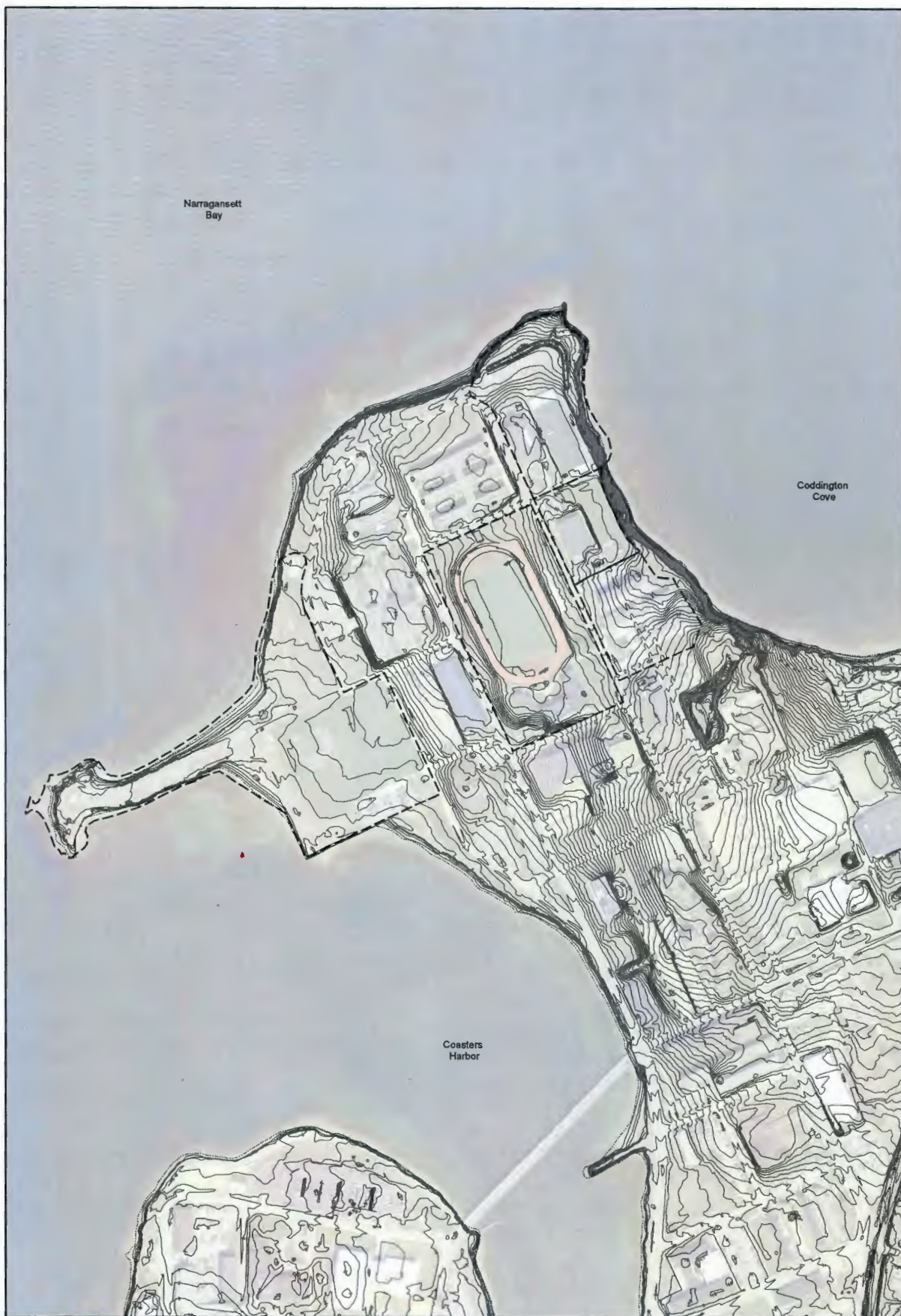




SITE MAP

SITE 19 – DEREKTOR SHIPYARD
 ONSHORE, OU 12 AND OFFSHORE, OU 5
 NAVSTA NEWPORT, RHODE ISLAND



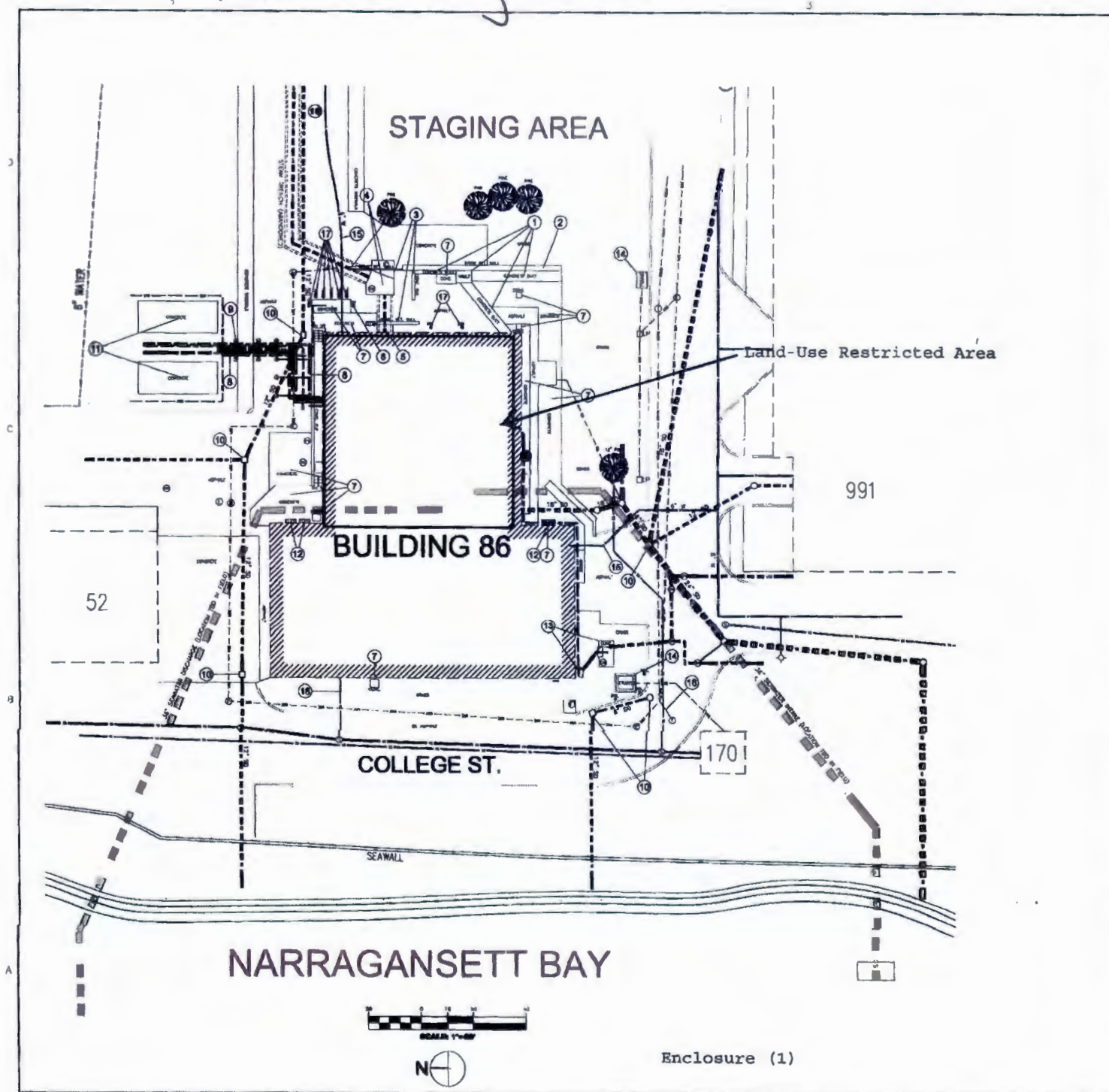
 <p>Drawn: JB 02/26/2015 Approved: MK 02/26/2015 Project #: 60268619</p>	<p>N</p>  <p>0 75 150</p> <p>Scale in Feet</p>	<p>SITE MAP CARR POINT IR SITE 22 AND MRP SITE 1 STORAGE AREA, OU 10 AND SHOOTING RANGE, OU 9 NAVSTA NEWPORT, RHODE ISLAND</p>
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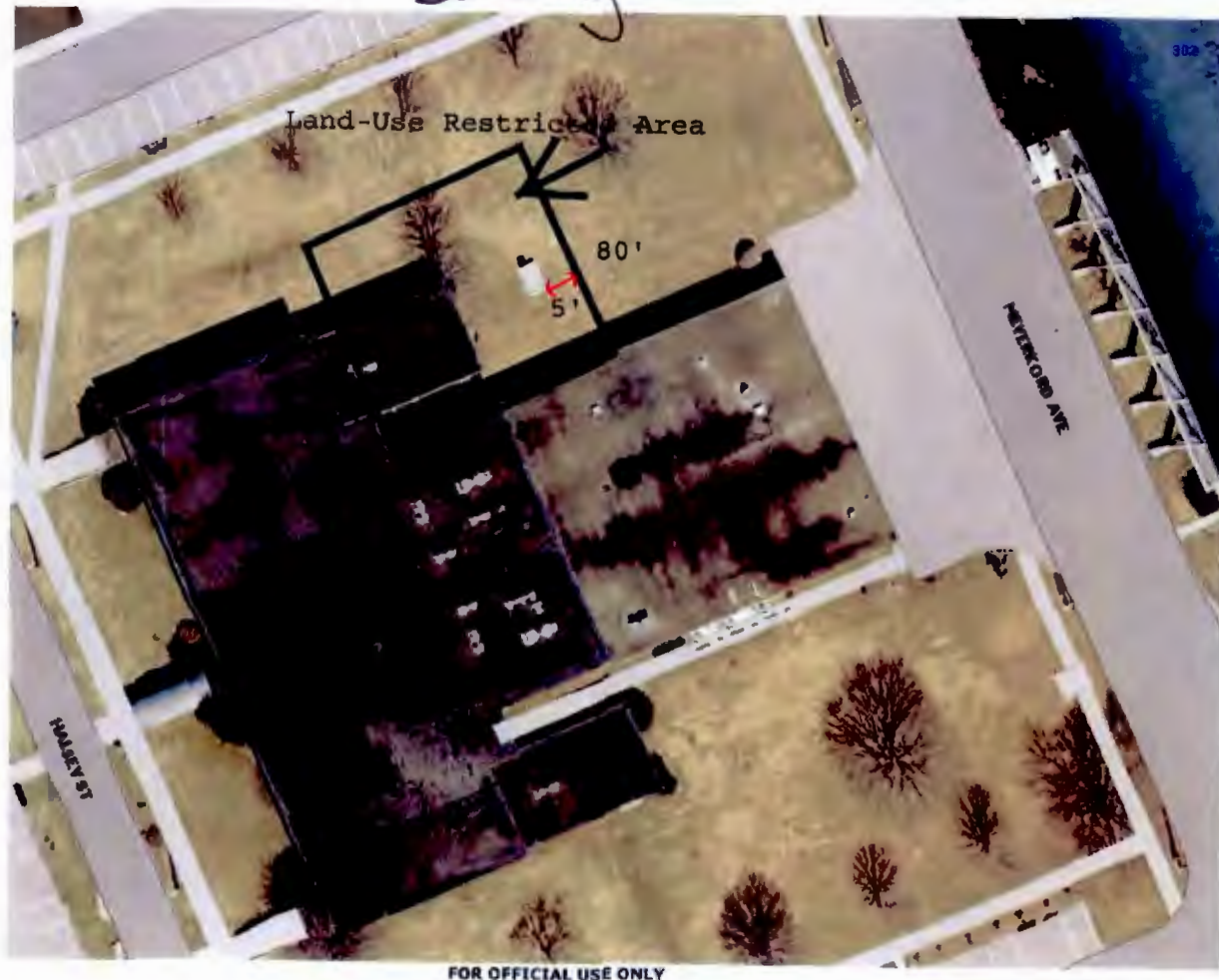
 <p>RESOLUTION CONSULTANTS</p> <p>Drawn: JB 02/27/2015</p> <p>Approved: MK 02/27/2015</p> <p>Project #: 60268619</p>	<p>N</p>  <p>0 175 350</p> <p>Scale in Feet</p>	<p>SITE MAP</p> <p>SITE 23 – CODDINGTON POINT BURIED DEBRIS AREAS NAVSTA NEWPORT, RHODE ISLAND</p>
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Former Building 86 CHI



Building 355 CP



FOR OFFICIAL USE ONLY



Prepared For:
cornelia.mueller@navy.mil
02/25/2015

Map of:

Former Building 70 Midway

FOR OFFICIAL USE ONLY

Not to Scale

Document Generated from RSMS Internal Mapping Application



Enclosure (3)



Prepared by:
cornelia.mueller@navy.mil
02/25/2015

Gate 2 Phytoremediation Area

Source: Navy GeoReadiness Repository
FOR OFFICIAL USE ONLY



NOT TO SCALE

Enclosure (4)

Appendix B

Land Use Control Compliance Inspection Checklist

Land Use Control (LUC) Compliance Inspection Checklist

Decision Unit (DU) 1-1, DU 1-2, and DU 1-3, Operable Unit (OU) 13 - Site 7 - Tank Farm 1

Naval Station (NAVSTA) Newport, Portsmouth, RI



Description: DU 1-1 is located in the southeast portion of Tank Farm 1 (Site 7), OU 13, in Portsmouth, Rhode Island. DU 1-2 and DU 1-3 are located in the central portion of Tank Farm 1. The LUC boundaries are the same as the DU boundaries, as shown on Figure 3 (DU 1-1), Figure 4 (DU 1-2), and Figure 5 (DU 1-3) of the LUC Remedial Design (RD). LUCs are in place to a) maintain the Ethyl Blending Plant (EBP), Transformer Vault 2 (TV2), and Transformer Vault 3 (TV3) structure foundations within the DUs to prevent exposure to any soil that may underlie the foundations that has not been assessed; b) prevent residential or unrestricted recreational use of the DUs; c) prevent soil excavation without proper management of excavated soils; and d) prevent demolition of TV2 and/or TV3 without meeting Toxic Substances Control Act (TSCA) (15 U.S.C. §§ 2601 et seq.) protectiveness standards so as not to create a threat of release to the environment. There is no fence to mark the LUC boundaries. Physical LUC components include: one warning sign for each DU (three total) and the EBP, TV2, and TV3 foundations. The remedy for DU 1-1, DU 1-2, and DU 1-3 includes limited surface soil excavation with off-site disposal and LUCs.

INSTRUCTIONS:

- A This checklist may only be used and submitted with copies of Figures 3, 4, and 5 of the LUC RD (date cited in Part 1, Question 1) depicting LUC boundaries and key remedy components.
- B Checking "Yes" in the responses below indicates compliance with the LUC requirements. Any question that does not have a "Yes" response must be explained in the comments section, and affected areas must be clearly noted on the accompanying copy of the appropriate figure from the LUC RD.
- C The site inspection portion must include a full boundary walk of DU 1-1, DU 1-2, and DU 1-3 and physical inspection of every LUC component identified in the description above. Photographs should be taken to document anything that is found to be out-of-compliance with the LUC RD.
- D The inspection team must review the LUC RD and the prior year's LUC inspection report prior to conducting the inspection. The LUC RD shall be on-hand at the time of the inspection.
- E The LUC inspection consists of five parts - 1) a review of files in NIRIS and the town planning office and interviews with the Navy RPM and the NAVSTA Point of Contact (POC); 2) site walk and inspection of LUC components; 3) follow up to identify notices to responsible parties of deficiencies identified; 4) suggested revisions to the inspection checklist; and 5) certification by the inspection team. The completed inspection checklist shall be included in the updated LUC Inspection Report, and the Inspection Report shall be filed in the post-ROD file.

PART 1 - FILE REVIEW AND INTERVIEWS

		RESPONSES	
		YES	NO
1	Write in the current version of the LUC RD document as of inspection date: _____ LUC RD Date: _____		
1.a	Is the complete LUC RD on file with NAVFAC in NIRIS?		
2	Check LUC Tracker Module of NIRIS - Do the boundaries shown appear to match that in the LUC RD?		
3	Does the town of Portsmouth, RI, offices have the current LUC RD available (electronically or physically)?		
4	Review files to seek records documenting EPA and/or RIDEM notices of non-compliance. Is there:		
4.a	absence of activities inconsistent with the LUCs (specifically: there is no residential or unrestricted recreational use per the LUC RD)?		
4.b	absence of notices of corrective actions regarding activities that are inconsistent with the LUCs?		
4.c	absence of changes in procedures affecting LUCs (e.g. rights of way, easements, parking travel routes, etc.)?		
4.d	absence of proposed land use changes, or intents to reuse property?		
4.e	absence of documents or other information indicating planned transfer or sale of property?		
5	Do records indicate that the planned remedial actions stated in the ROD have been completed?		
6	Do the NAVFAC ERP RPM and the NAVSTA ERP POC confirm that there are no plans for transfer, sale, or re-use of the site? (In addition, interviewer should follow up on any questions that remain uncertain from 4a–4e.)		

PART 2 - SITE INSPECTION

		YES	NO
7	Are Figures 3, 4, and 5 of the LUC RD attached to this inspection form?		
8	Land uses and evident activities - is there:		
8.a	absence of any indications of damage to the Ethyl Blending Plant (EBP) structure foundation within DU 1-1?		
8.b	absence of any indications of damage to the Transformer Vault 2 (TV2) structure foundation or to the entire TV2 structure within DU 1-2?		
8.c	absence of any indications of damage to the Transformer Vault 3 (TV3) structure foundation or to the entire TV3 structure within DU 1-3?		
8.d	absence of stored investigation-derived waste and/or unlabeled drums stored on site?		
8.e	absence of any indications of residential use of the land?		
8.f	absence of any indications of unrestricted recreational use (any use other than bow hunting in accordance with NAVSTA rules)?		
8.g	absence of any indications of changes in land use?		
9	Is the site free of excavations or construction, including utility work and repair, other than those associated with the remedy?		
10	Are warning signs present as mapped and in good condition?		
11	Is the site free of evidence of vandalism and trespass?		

PART 3: COMMENTS & NOTES

Provide question number from Parts 1 and 2 above for each comment. Use additional pages if needed.

PART 4: RECOMMENDATIONS

Provide suggested improvements to this form and inquiries.

PART 5: CERTIFICATIONS

Onsite Inspection Team Roster

Lead Inspector Name	Affiliation	Signature	Date
Other Attendee Name	Affiliation	Signature	Date
Other Attendee Name	Affiliation	Signature	Date

Navy Annual Certification:

I hereby certify that a complete and thorough inspection and an evaluation of compliance with soil land use controls established for the site in the 2016 Record of Decision for DU 1-1, DU 1-2, and DU 1-3 at Tank Farm 1 (Site 7) have been performed and that the items noted on this inspection form have been assessed with respect to the intent of the implemented remedial action objectives for the site.

Navy Representative Name	Title
Navy Representative Signature	Date