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FINAL LAND USE CONTROL REMEDIAL DESIGN SITE 9 OLD FIRE FIGHTING TRAINING AREA OPERABLE UNIT 3 (OU 3) NS NEWPORT RI

1/1/2018

TETRA TECH

Department of the Navy
Naval Facilities Engineering Command Mid-Atlantic
Norfolk, Virginia

Final
Land Use Control Remedial Design

Site 9 – Old Fire Fighting Training Area, Operable Unit 3

Naval Station Newport
Newport, Rhode Island

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Acronyms and Abbreviations

CERCLA	Comprehensive Environmental Response, Compensation, and Liability Act
COC(s)	contaminant(s) of concern
DoD	U.S. Department of Defense
EPA	U.S. Environmental Protection Agency
ER	Environmental Restoration
ERP	Environmental Restoration Program
FFA	Federal Facility Agreement
LUC	Land Use Control
MIDLANT	Mid-Atlantic
NAVFAC	Naval Facilities Engineering Command
NAVSTA	Naval Station
Navy	U.S. Department of the Navy
NETC	Naval Education and Training Center
NPL	National Priorities List
NUWC	Naval Undersea Warfare Center
O&M	operations and maintenance
OFFTA	Old Fire Fighting Training Area
OU	Operable Unit
PAH	polycyclic aromatic hydrocarbons
RCRA	Resource Conservation and Recovery Act
RD	Remedial Design
RFI	Remedial Investigation
RIDEM	Rhode Island Department of Environmental Management
ROD	Record of Decision

RPM	Remedial Project Manager(s)
SWOS	Surface Warfare Officers School
TPH	total petroleum hydrocarbons
UCLs	upper concentration limits
USTs	Underground Storage Tanks

1.0 Introduction

This document constitutes the Land Use Control (LUC) Remedial Design (RD) for Site 9 - Old Fire Fighting Training Area (OFFTA), Operable Unit 3 (OU3), at Naval Station (NAVSTA) Newport, formerly the Naval Education and Training Center (NETC), Newport Rhode Island. NAVSTA Newport was placed on the U.S. Environmental Protection Agency (EPA) National Priorities List on November 21, 1989, and assigned EPA ID Number RI6170085470.

This document was prepared by the Department of the Navy's (Navy) Naval Facilities Engineering Command (NAVFAC) Mid-Atlantic. NAVFAC Mid-Atlantic is the lead agency conducting the evaluation and cleanup of NAVSTA Newport. The LUC RD was developed as part of the remedial design for Site 9 to address LUC implementation actions in accordance with the Site 9 Record of Decision (ROD) (Navy 2010) and the NAVSTA Newport Federal Facility Agreement (FFA) (EPA et al. 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 (the Navy Principles) as agreed between the EPA and the Department of Defense (DoD) (Navy 2003).

2.0 Background and Description

NAVSTA Newport is located approximately 60 miles southwest of Boston, Massachusetts, and 25 miles south of Providence, Rhode Island. This naval facility consists of approximately 1,400 acres, with portions of the facility located in the City of Newport and the Towns of Middletown, Portsmouth, and Jamestown, Rhode Island. With the exception of Gould Island, which is located in Narragansett Bay, the western boundary of NAVSTA Newport follows the western shoreline of Aquidneck Island for nearly 6 miles, facing the eastern passage of the bay (Figure 1). The major commands currently located at NAVSTA Newport include the Surface Warfare Officers School (SWOS) Command, Naval Undersea Warfare Center (NUWC), and Naval War College. Research, development, and training have been the primary activities at NAVSTA Newport from 1974 to present. The land area surrounding the base consists of medium-density development, with municipal, residential, commercial, industrial, and recreational land use to the south and east in Newport and southern Middletown; and progressively lower-density residential and agricultural land uses to the east and north in northern Middletown and Portsmouth. NAVSTA Newport was placed on the National Priorities List (NPL) in 1989 in accordance with the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA).

2.1 Site Characteristics

Site 9 is approximately 8.2 acres and its current use includes a mix of buildings, active parking areas, roadways, and open space. A portion of the site is occupied by part of the John H. Chafee Fitness Center, constructed in 2013. As shown in Figure 2, Site 9 is located at the northern end of Coasters Harbor Island and is bounded to the north, and partially to the east, and west by Coasters Harbor (part of Narragansett Bay).

The site was the location of a Navy fire-fighting training facility from World War II until 1972. During training operations on the northern part of Site 9, fuel oils were ignited in various structures at the site and then were extinguished by trainees. Underground piping reportedly carried fuel from underground storage tanks (USTs) to the structures where it was ignited. Unburned fuels and water were drained from the buildings and routed to an oil-water separator before being discharged to Coasters Harbor.

Upon closure in 1972, the training structures were demolished and buried in mounds on the site. The entire area in the northern part of the site was then covered with topsoil and converted to a recreational area, which included a baseball field, a picnic area, and open pavilion. This recreational area was opened as “Katy Field” in 1976 for Navy use. During a short period in the 1990s, local community youth baseball teams were allowed to use the baseball field, and former Building 144 located north of Taylor Drive (not shown on

Figure 2) was used as a day care facility. Katy Field was used for recreation until it was closed and fenced in October 1998. Building 144 was demolished in 2009.

In 2003, the Surface Warfare Officers School (SWOS) Applied Instruction Building (Building 1362) was constructed on a smaller portion of the site to the south of the now former Katy Field. During construction, contaminants, primarily petroleum, were found within the construction zone and determined to be similar and contiguous with those at the former fire training areas. As a result, the SWOS area and soils under a portion of Taylor Drive were incorporated into Site 9.

The northern portion of the site was converted to parking for the new John H. Chafee Fitness Center, which was constructed at the southeastern corner of the site and dedicated in 2013. Most of the site along the northern section of Coasters Harbor Island was paved for parking as part of the remedial action selected in the ROD. The remaining portions are either open space, walkways, or traffic islands with cover systems in place.

Multiple investigations have been performed at Site 9, including a Remedial Investigation (2001), Groundwater Risk Evaluation (2002), Draft Feasibility Study (2002), Soil Pre-Design Investigation (2004–2005), Supplemental Risk Evaluation (2007), and a Revised Draft Final Feasibility Study (2009–2010). A CERCLA response action was required because concentrations of lead and polycyclic aromatic hydrocarbons (PAHs) in surface and subsurface soil posed unacceptable risk to human health under current and future industrial/commercial land use scenarios, and under hypothetical future residential/recreational land use scenarios. In addition, concentrations of metals, benzene, and 2-methylnaphthalene in groundwater at the site exceeded drinking water standards and would potentially pose risk to human health if site groundwater were to be used as a potable water source. Because drinking water standards were exceeded, the CERCLA action addressed groundwater as well as soil.

A series of removal actions were undertaken as non-time-critical removal actions:

- 2005 — The earthen mounds and associated buried debris were removed from the site.
- 2007–2008 — Soils containing petroleum at concentrations above RIDEM upper concentration limits (UCLs) were removed from the site; additionally, an oil-water separator, clay drains from training structures, and two 8-inch cast iron drainage pipes were excavated and removed.
- 2011 — A replacement stone revetment (shoreline protection system) designed to prevent erosion of remaining contaminated soil to the sediments of Coaster's Harbor was constructed as part of a CERCLA removal action.

The remaining soils at the site contain PAHs and metals (primarily lead, arsenic, and manganese) comingled with petroleum at concentrations that pose risk to human

receptors under hypothetical residential and unrestricted recreational scenarios, as well as under the current industrial use scenario. Asbestos was found to be comingled with site soil during the revetment removal action. As part of the removal action, some of the asbestos contaminated soil was disposed of off-site.

2.2 Remedy

The final remedy for Site 9 was documented in the ROD signed by the Navy and the EPA Region I in September 2010, with concurrence from Rhode Island Department of Environmental Management (RIDEM). The selected remedy in the ROD for Site 9 was developed to be protective of planned land use equivalent to an industrial/commercial use, and included the following components (Navy, 2010):

- Covering of contaminated soil with a geotextile-lined soil cover in grassy areas and/or with asphalt/concrete such that site-wide concentrations meet the established cleanup levels.
- Long-term operation and maintenance (O&M) of the replacement stone revetment to prevent soil erosion at the shoreline and to maintain the protectiveness of the asphalt/soil cap.
- Implementation of LUCs to ensure that future use of the property is limited to non-residential activities, and to ensure that the soil cover and subsurface soils are not disturbed without appropriate safety precautions.
- Implementation of groundwater use restrictions and a long-term monitoring program. The use restrictions prevent the installation of wells for any consumption, irrigational, or industrial purpose, and also describe necessary protection measures for workers that may come into contact with groundwater during any future site development activities. Long-term monitoring will evaluate whether site contamination has migrated to off-shore sediments or to groundwater outside of the compliance boundary for the contamination being managed in place.
- Review of the site every 5 years to assess the protectiveness of the remedy.

2.3 LUC Boundaries

The soil and groundwater LUC Area boundaries established in the ROD (Navy 2010) were the same as the site boundary. During long-term monitoring, manganese concentrations in groundwater immediately outside the site boundary have periodically exceeded cleanup goals. At the May 2017 Remedial Project Managers (RPM) Meeting, the Project Team agreed to expand the groundwater LUC boundary southward to encompass the existing well locations where the cleanup goal for manganese was exceeded, resulting in a new Site 9 Groundwater LUC boundary (Navy, 2017b). This development led to the separation of the Site 9 soil and groundwater LUC area boundaries, and the formation of two separate LUC areas as shown on Figure 2:

- The area identified in the ROD where soil was determined to exceed soil cleanup goals is referred to in this LUC RD as the “Site 9 Soil LUC Area.”

- The area where groundwater has been found to exceed groundwater cleanup goals (based on long-term monitoring results) is referred to in this LUC RD as the “Site 9 Groundwater LUC Area.”

3.0 Land Use Controls

LUCs are used 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 and the environment. LUCs can consist of institutional controls and/or engineering controls. Institutional controls, such as activity 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 also consist of Base Instructions, notations on installation land use plans, or similar instruments. In the form of a legal document, the institutional controls will run with the land. Engineering controls are typically barriers, such as a fence or engineered cap.

3.1 Performance Objectives

The ROD selected LUCs, including institutional controls and engineering controls, as components of the final remedy for Site 9 to control or restrict certain types of property uses. The LUCs included in the selected remedy will be maintained until concentrations of hazardous substances have been reduced to levels that allow for unlimited use and unrestricted exposure. Further, the following are the Site 9 LUC performance objectives (Navy, 2010):

- Establish a waste management area for the site where contaminants associated with the releases from the fire training operations remain in place. The waste management area will encompass all the area within Site 9 soil LUC boundary and be maintained and monitored by the Navy.

- Restrict property uses to those consistent with industrial/commercial activities, such as parking, roadways, sidewalks, material stockpiles, equipment storage (not to exceed design specification requirements), etc.

- Prevent use of the groundwater at the property for any consumptive purpose, including for household use, drinking water supply, irrigation, or industrial use.

- Prevent excavation or disturbance of the asphalt/soil cover, revetment, monitoring wells, and any other components of the remedy, and prevent access to the contaminated soil by persons who are not adequately trained and properly informed of the hazards associated with such activities.

3.2 Restrictions

The LUCs established for the Site 9 Soil/Waste Management LUC Area and the Site 9 Groundwater LUC Area include the set of restrictions defined below. Following EPA and RIDEM approval of this update to the LUC RD, the restrictions will be imposed 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:

- Any excavation activity that compromises the integrity of the cover system.
- Any consumptive use of groundwater.
- Any activity that compromises the integrity of the shoreline controls.
- Any additional uses of the site beyond the planned reuse of the site for parking and industrial activities.
- Any use or industrial activity that would interfere with the implementation, effectiveness, integrity, operation, or maintenance of the required remedy components, including but not limited to: (i) the cover system, (ii) the shoreline controls, and (iii) any other systems used to monitor groundwater to ensure that the remedy remains effective and is protective of human health and the environment.

3.3 Activities Consistent with LUC Objectives

The following activities and uses are consistent with the LUC objectives and will be allowed in the Site 9 LUC Area as shown on Figure 2:

- In accordance with COMNAVREG MIDLANT INSTRUCTION 11011.11C (SITE APPROVAL REQUIREMENTS AND PROCESS) dated 11 May 2017 (or subsequent revisions), and activities in accordance with NAVSTA Newport Instruction (NAVSTANPTINST) 5090.15C dated 18 May 2015 (or subsequent revisions), site approval is required for actions that affect or may affect facilities or land located on Navy-controlled land holdings. To ensure the latest version of these instructions are on hand, anyone seeking such approval should contact the NAVSTA ER Program Manager. The site approval process includes determining if the proposed action is compatible with Environmental Restoration Land Use Controls and requires NAVFAC MIDLANT Environmental to identify all environmental compliance requirements. The NAVSTA ER Program Manager will provide notice and coordinate project review with the EPA and the State of Rhode

Island. Based on the outcome of this coordination, the NAVSTA ER Program Manager will provide guidance for projects to ensure consistency with the site remedy. The NAVSTA ER 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.

- Reuse of the site for the John H. Chafee Fitness Center and Katy Field parking area.
- Continued use of the site for portions of Peary Street, Peary Street Bridge, Taylor Drive, and the SWOS parking/access roads.
- Vehicle use to conduct routine maintenance of the vegetative cover such as mowing, routine maintenance of the parking lot such as snow plowing, and maintenance of storm sewer and utilities. Emergency response vehicles are also permitted.
- Passive pedestrian uses including, but not limited to, walking, jogging, and wildlife observation.
- Long-term monitoring activities including inspections conducted per the Long Term Management Plan.
- Environmental investigation and/or remedial actions conducted per approved work plans.
- Storm sewer and other utility and facility maintenance activities.

Implementation actions to be taken to ensure that the LUC 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 the implementation actions.

4.0 Land Use Control Implementation Actions

Pursuant to the ROD, the Navy is responsible for implementing, inspecting, reporting, and enforcing the institutional controls in accordance with this LUC RD. For purposes of this LUC RD, the term "implementation actions" means actions to implement, operate, maintain, and enforce the LUC component of the remedy. The Navy will perform all short- and long-term implementation actions at Site 9 per The Principles and Procedures for Specifying, Monitoring and Enforcement of Land Use Controls and Other Post-ROD Actions (2003), the FFA, the ROD, 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 City of Newport, Rhode Island, 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 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 defining the Site 9 Soil/Waste LUC Area boundaries and the Site 9 Groundwater LUC Area boundaries (Figure 2). Depict on this map the location and boundaries of Site 9 and the extent of the area over which the LUCs will apply. Indicate where LUCs have been imposed and annotate LUCs in the Navy geographic 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, as per NAVSTANPTINST 5090.15C, dated 18 May 2015 (or subsequent revisions), and Commander, Navy Region, Mid-Atlantic Instruction 5090.2A, Installation Restoration; Land Use Controls at Navy Region, Mid-Atlantic Installations; Establishment and Maintenance, as amended. Navy will notify EPA and RIDEM in advance of any changes to these internal procedural instructions that would impact the effectiveness of the LUCs.

2. Incorporate Figure 2 into the Site 9 Long-Term Management Plan; additionally, copies will be provided to EPA and RIDEM.

3. Monitor compliance with the LUCs. LUC monitoring will be coordinated with the Long Term Management program. 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 I RIDEM as part of the Long-Term Management 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. Engineering controls (i.e., signs and bolted covers on flush-mount wells) will also be inspected as part of the O&M Plan at the frequency established in the plan. Although the well plugs may have locks, the bolted well covers are the more protective measure for security of the flush-mount wells; therefore, inspections will check the integrity of the bolted covers, but will not include the locks on the well plugs. A checklist to be used during LUC inspections is provided as Appendix A.

4. Report and notify regulatory agencies. The notification requirements are summarized in Table 1 and include the following:

   a) Notify EPA Region I 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 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 I 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 I and RIDEM regarding how the breach will be or has been addressed within 10 days of sending EPA Region I 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 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.

   c) Notify the EPA Region I and RIDEM in writing at least 6 months prior to any 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 I 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 effective LUCs. 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. The Navy shall provide a copy of the executed deed or transfer documents to EPA Region I and RIDEM.

d) Submit reports of annual monitoring. LUC compliance monitoring shall be conducted annually and the results submitted to the EPA Region I 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 LUCs 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 to such restrictions and controls.

5. Obtain EPA Region I 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 I, in consultation with RIDEM, 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 the CERCLA and the National Contingency Plan as specified in the Site 9 ROD (Navy 2010). The last five-year review report for NAVSTA Newport was completed in November 2014 (Navy 2014). The next five-year review will be completed in 2019 and will include an evaluation of the Site 9 remedy. Five-year reviews will be submitted to EPA Region I and RIDEM for review per the FFA (EPA et al. 1992).

Should the Navy fail to complete a required LUC implementation action, EPA and/or RIDEM shall notify the Navy RPM and seek immediate action. If the Navy fails to complete a required LUC implementation action within a reasonable time of being so 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 the Site 9 property 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 will notify the Navy RPM, 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). 2003. The Principles and Procedures for Specifying, Monitoring and Enforcement of Land Use Controls and Other Post-ROD Actions.

United States Environmental Protection Agency (EPA), State of Rhode Island, and Department of the Navy (Navy). 1992. Federal Facility Agreement under CERCLA 120, In the Matter of the U.S. Department of the Navy, Naval Station Newport, Newport, Rhode Island. March.

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Department of the Navy (Navy). 2017a. Minutes from the March 2017 Remedial Project Managers (RPM) Meeting, March 14–16, 2017, Naval Station Newport, Newport RI.

Department of the Navy (Navy). 2017b. Minutes from the May 2017 Remedial Project Managers (RPM) Meeting, May 16-18, 2017, Naval Station Newport, Newport RI.

TABLES

Table 1: Summary of Land Use Control (LUC) Implementation Actions
Site 9 – Naval Station Newport, Rhode Island

LUC Requirement/Description	Frequency
Institutional Controls	
Issue final LUC Remedial Design (RD)	One Time
Incorporate Figure 2 of this LUC RD into the Long-Term Management Plan and submit to EPA and RIDEM	One-Time
Submit to the Land Record Offices of the City of Newport, 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	One time
Incorporate LUC boundaries into Navy's NIRIS database and LUC Tracker System	One Time
Conduct annual LUC compliance inspections	Annually
Prepare and issue LUC Inspection Report / completed Inspection Checklist to EPA and RIDEM	Annually
Identify and report LUC effectiveness in inspection report	Annually
Evaluate LUC effectiveness as part of each five-year review	Every Five Years
Engineering Controls	
Install and maintain warning signs	Installation - One time Maintenance - As necessary
Conduct groundwater monitoring	In accordance with the Long-Term Management Plan
Prepare and issue Groundwater Monitoring Report	Annually
Conduct sediment monitoring	In accordance with the Long-Term Management Plan
Prepare and issue Sediment Monitoring Report	Annually

LUC Requirement/Description	Frequency
Notification Requirements	
The Navy will notify EPA Region I and RIDEM in advance of any proposed change 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 e-mail 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 after discovery
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
The Navy will notify the 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, 6 months advance notice, but not less than 60 days

Notes: EPA = U.S. Environmental Protection Agency; NIRIS = Naval Installation Restoration Information Solution; RD = Remedial Design; RIDEM = Rhode Island Department of Environmental Management

FIGURES

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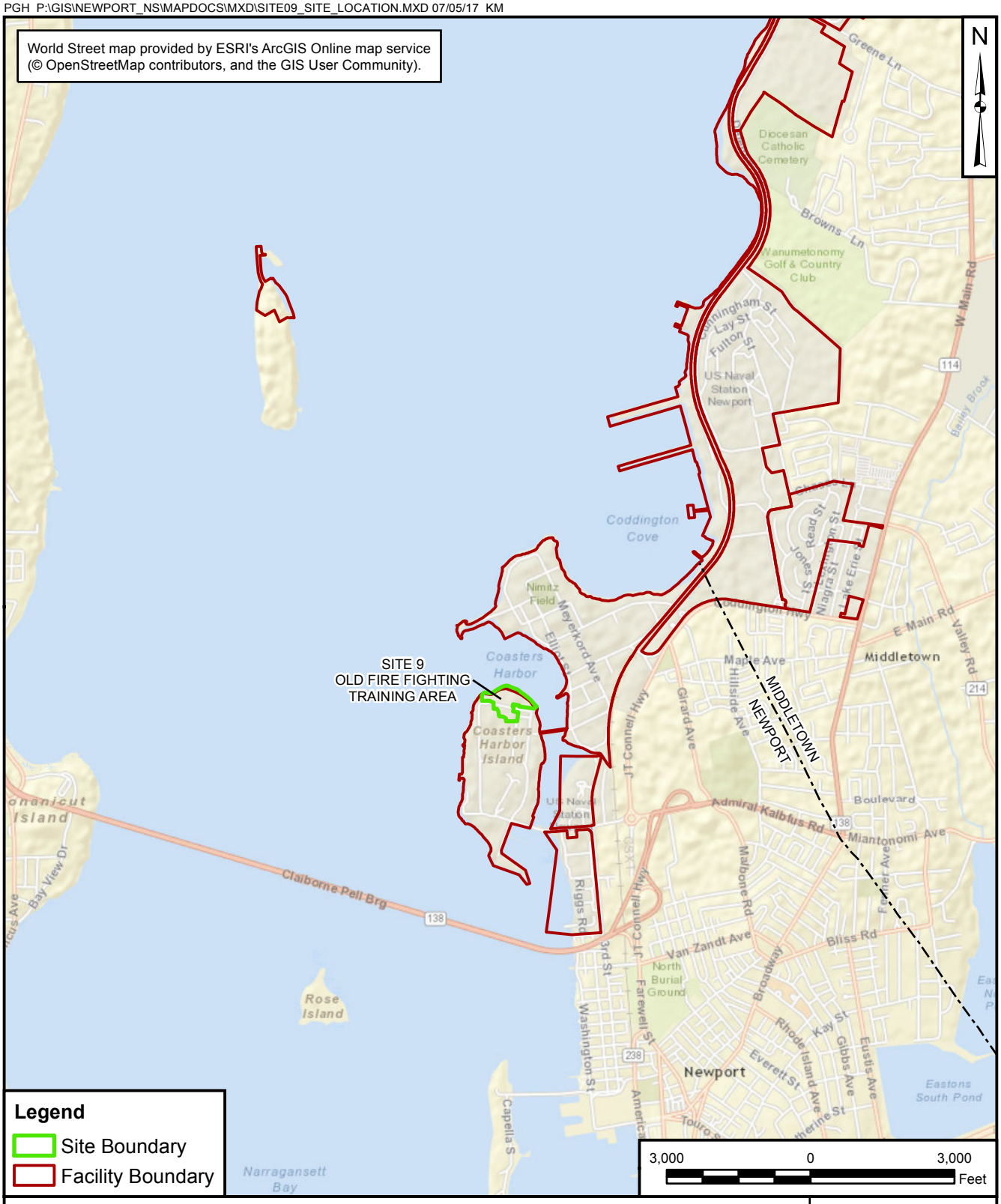

LOCATION MAP
SITE 9 - OLD FIRE FIGHTING TRAINING AREA
NAVAL STATION NEWPORT
NEWPORT, RHODE ISLAND

CTO	
WE10	
DRAWN BY	DATE
K. MOORE	06/12/17
CHECKED BY	DATE
S. BUCHANAN	07/05/17
FIGURE NUMBER	
1	

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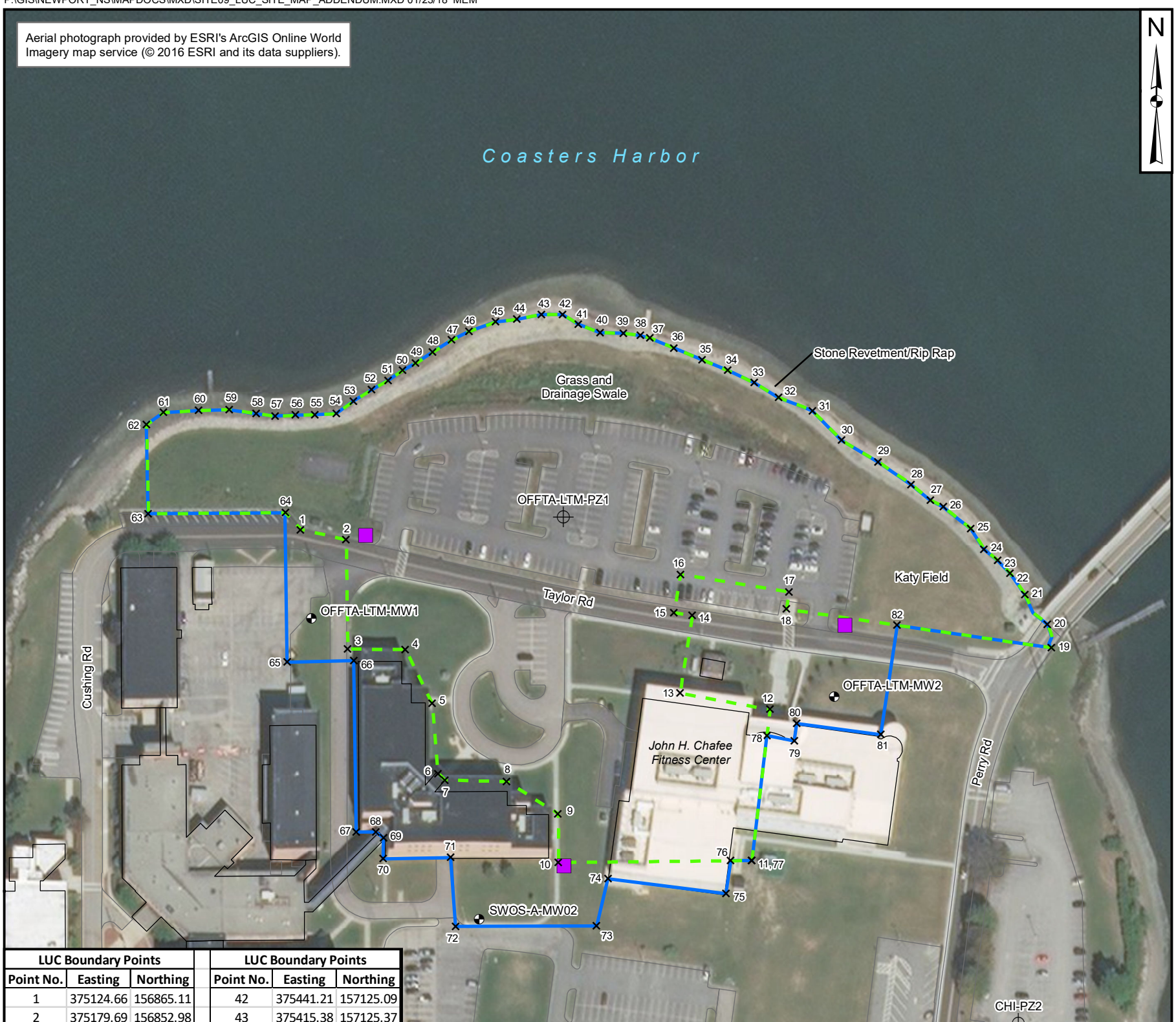

LUC Boundary Points			LUC Boundary Points		
Point No.	Easting	Northing	Point No.	Easting	Northing
1	375124.66	156865.11	42	375441.21	157125.09
2	375179.69	156852.98	43	375415.38	157125.37
3	375181.54	156721.10	44	375385.92	157119.36
4	375251.14	156720.66	45	375360.10	157115.98
5	375283.47	156655.01	46	375328.02	157104.51
6	375290.64	156570.92	47	375307.07	157094.02
7	375299.14	156562.87	48	375284.17	157079.46
8	375373.46	156561.08	49	375263.58	157065.98
9	375435.69	156522.17	50	375247.84	157057.85
10	375436.28	156463.34	51	375230.70	157045.65
11	375669.65	156465.70	52	375210.36	157034.31
12	375691.66	156647.96	53	375188.70	157020.67
13	375582.87	156667.64	54	375168.04	157005.48
14	375597.65	156761.57	55	375142.26	157004.18
15	375575.71	156765.15	56	375118.64	157003.52
16	375583.35	156811.38	57	375094.07	157002.53
17	375714.52	156789.91	58	375070.92	157005.38
18	375711.39	156769.34	59	375038.70	157010.35
19	376031.50	156722.52	60	375001.53	157009.24
20	376026.58	156751.08	61	374959.01	157006.52
21	375999.51	156786.83	62	374938.63	156992.30
22	375981.45	156812.77	63	374940.68	156884.65
23	375966.46	156828.18	64	375106.38	156886.30
24	375950.06	156841.80	65	375108.50	156705.22
25	375934.04	156866.91	66	375189.23	156706.96
26	375901.26	156892.95	67	375191.84	156500.36
27	375885.69	156900.71	68	375215.62	156500.36
28	375862.11	156919.86	69	375224.99	156493.07
29	375821.87	156947.25	70	375224.47	156467.55
30	375777.86	156973.01	71	375306.24	156469.11
31	375743.22	157008.48	72	375311.97	156386.30
32	375701.98	157024.80	73	375482.29	156386.82
33	375672.79	157042.47	74	375495.83	156443.59
34	375640.81	157057.53	75	375638.54	156425.88
35	375609.34	157070.51	76	375644.18	156465.87
36	375575.77	157084.81	77	375669.65	156465.70
37	375546.73	157096.47	78	375687.89	156616.69
38	375535.23	157099.53	79	375720.83	156610.26
39	375514.68	157102.62	80	375723.95	156631.09
40	375486.55	157103.10	81	375825.52	156617.55
41	375459.93	157113.59	82	375845.31	156749.84

NAVFAC

LAND USE CONTROL AREAS
SITE 9 - OLD FIRE FIGHTING TRAINING AREA
NAVAL STATION NEWPORT
NEWPORT, RHODE ISLAND

CTO	
WE10	
DRAWN BY	DATE
M. MASON	01/16/18
CHECKED BY	DATE
S. PARKER	01/23/18
FIGURE NUMBER	
2	

APPENDIX A
LAND USE CONTROL ANNUAL COMPLIANCE INSPECTION CHECKLIST

Land Use Control (LUC) Compliance Inspection Checklist
Operable Unit (OU) 3 - Site 9: Old Fire Fighting Training Area (OFFTA)
Naval Station (NAVSTA) Newport, Newport RI

Description: Site 9 (OU3) is located at the north end of Coasters Harbor Island in Newport, Rhode Island. There is no fence to mark the LUC boundary. LUCs are in place to: a) establish a waste management area, b) limit use to industrial/commercial activities, c) prevent use of groundwater for any consumptive purpose, d) prevent excavation that would compromise the cover, and e) prevent access to the soil below the cover systems. LUC components include: three warning signs; a two-foot thick soil cover system (includes parking areas, sidewalks, roadways, grassed areas, bioswales, and buildings); the shoreline stone revetment; and the monitoring wells and piezometers. Restricted activities are stated in Section 3.2 of the LUC RD. The LUCs apply within the boundary of Site 9 (Figure 2 of the LUC Remedial Design [RD]), and includes the shoreline area seaward (north) to the mean low tide line. The remedy includes installation and maintenance of cover systems, groundwater monitoring, and LUCs.

INSTRUCTIONS:

A This checklist may only be used and submitted with a copy of Figure 2 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 walk of open areas, visual observation of the boundary as accessible, inspection for trespass/entry, 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 - Does the boundary shown appear to match that in the LUC RD?		
3	Does the town of Newport, 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	Is Figure 2 of the LUC RD attached to this inspection form?		
8	Land uses and evident activities - is there:		
8.a	absence of any intrusive activities that could impact the integrity of the cover system?		
8.b	absence of recently installed wells, other than those associated with the remedy? (Refer to Fig. 2)		
8.c	absence of stored investigation-derived waste and/or unlabeled drums stored on site?		
8.d	absence of development or repurposing of the landscape, other than as necessary for completion of the remedy?		
8.e	absence of any indications of residential use of the site?		
8.f	absence of any indications of child care, elementary of secondary school, or playground facilities?		
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	Are the Navy's monitoring wells in good condition (e.g., undamaged casing/road box, wells properly bolted or locked)?		
12	Is the shoreline revetment free of indication of major scouring, exposed geotextile, displaced armor stone, etc.?		
13	Is the site free of stressed vegetation, or other identifiable concerns?		

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 2010 Record of Decision for Site 9 (OFFTA) 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

ENCLOSURE

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

IN REPLY REFER TO:
COMNAVREGMIDLANTINST 5090.2A
N45
JAN 0 3 2018

COMNAVREG MIDLANT INSTRUCTION 5090.2A

From: Commander, Navy Region Mid-Atlantic

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

Ref: (a) COMNAVREGMIDLANTINST 11011.11B
(b) COMNAVREGMIDLANTINST 11011.12B
(c) OPNAV M-5090.1 of 10 Jan 2014
(d) DOD M-4715.20 of 9 March 2012
(e) Navy Environmental Policy Memo 99-02
(f) SECNAV M-5210.1 of Jan 2012
(g) OPNAVINST 5215.17A

1. Purpose. This instruction prescribes procedures for establishing and maintaining Land Use Controls (LUCs) at contaminated sites remediated under the Navy Environmental Restoration Program (NERP). It also assigns mission, functions, and tasks necessary for the successful management and maintenance of land use controls under references (a) through (e).

2. Cancellation. COMNAVREGMIDLANTINST 5090.2.

3. Background

a. At sites where contaminants are left in place at levels that do not allow for unrestricted use, LUCs are used to ensure that the contaminants do not pose an unacceptable risk to human health or the environment. LUCs are of two types, engineered controls and institutional controls. Engineered controls include fences, signs, and other physical means of controlling 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, notices recorded in public land records, base master plans, and periodic site inspections.

b. LUCs may be of indefinite duration and must be reviewed at least every five years for effectiveness. They are, or are part of, the clean-up remedy for a NERP site prescribed in a Record of Decision (ROD) or other decision document when the clean-up remedy does not achieve standards allowing unlimited usage at the site and unrestricted exposure to site contamination. After a ROD or other decision document is finalized, terms and conditions for establishing and maintaining land use controls will be developed and memorialized in a Land

Use Control Remedial Design (LUC RD) or similar document. Land use controls may be modified as site conditions change.

c. To be effective, land use controls must be imposed in a timely manner, and thereafter, maintained for as long as necessary. Long-term maintenance of land use controls requires vigilance and funding. Recognizing the need to protect human health and the environment, Navy Region Mid-Atlantic (NRMA) determined that a comprehensive and coordinated approach for installation land use controls is required. This approach requires cooperation between the Regional Engineer staff (Assistant Regional Engineer (ARE), Community Planning Liaison Officer (CPLO) and N45) and Navy Facilities Engineering Command (NAVFAC MIDLANT); references (a) and (b) pertain.

4. Action

a. According to reference (c), Commander, Navy Facilities Engineering Command (COMNAVFACENGCOM) is responsible for environmental remediation at NERP sites. NAVFAC MIDLANT is the Navy Facilities (NAVFAC) component that serves the installations to which this instruction applies. In carrying out its program responsibilities, Navy Facilities Engineering Command Mid-Atlantic Environmental (NAVFAC MIDLANT EV) will:

(1) Develop RODs and LUC RDs in coordination with affected installations and tenant activities. Operational flexibility, accomplishment of core mission requirements, combat readiness, security, force protection, cost, and other relevant criteria will be taken into consideration in the selection, implementation, and maintenance of LUCs.

(2) Implement and maintain land use controls in the manner and within the time prescribed in RODs and LUC RDs. Program and budget for the cost of maintaining LUCs, including the cost of performing oversight inspections and LUC reviews every 5 years.

(3) Integrate LUCs into the site approval processes, work permits, dig permits, infrastructure plans (e.g., shore infrastructure plans, global shore plans, and master plans), installation maps, and geographic information systems. Deny permission to conduct ground-disturbing activities that make use of, or develop, sites in a manner inconsistent with approved LUCs. In so doing, implement procedures and safeguards to withhold or deny site approval until it has been verified that no LUCs exist, or that the proposed use or development is consistent with existing LUCs.

(4) Retain RODs, LUC RDs, and other LUC documents for all sites to which this instruction applies per applicable records management requirements.

(5) Inform affected installation Commanding Officers (COs) and Public Works Officers (PWOs) at least annually of LUCs at their installations. This requirement may be accomplished by inviting these parties' attention to a list of LUCs published on the Regional Shore Installation Management System (RSIMS) hosted on the NAVFAC GeoReadiness Enterprise Business System website or by an annual email summary.

(6) Include information on applicable LUCs for inclusion in scopes of work for contracts involving ground-disturbing activity at locations subject to LUCs.

(7) Report to the installation COs and PWOs any activity inconsistent with known LUCs (e.g., failure of an engineered control).

b. Installation Commanding Officers will:

(1) Execute RODs and other LUC decision documents.

(2) Observe, adhere to, and publicize to their organizations and tenant commands LUCs imposed on their installations.

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

(4) Include information on applicable LUCs and compliance obligations in scopes of work prepared for contracts involving ground-disturbing activity at locations subject to LUCs.

(5) Report to NAVFAC MIDLANT EV all activity inconsistent with LUCs (e.g., failure of an engineered control).

(6) Cancel or revise command instructions inconsistent with this instruction.

c. Tenant Activities of CNRMA Installations will:

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

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

(3) Include information on applicable LUCs and the required compliance obligations in scopes of work prepared for contracts involving ground disturbing activity locations subject to LUCs.

(4) Report to the installation Commander all activity inconsistent with LUCs.

5. Oversight. Suspected violations of LUCs should be reported to NAVFAC MIDLANT EV, who will work with the installation COs to notify regulators.

6. Records Management. Records created as a result of this directive, regardless of media and format, shall be managed per SECNAV Manual 5210.1 of January 2012.

7. Review and Effective Date. Per OPNAVINST 5215.17A, COMNAVREG MIDLANT will review this instruction annually on the anniversary of its effective date to ensure applicability, currency, and consistency with Federal, DoD, SECNAV, and Navy policy and statutory authority using OPNAV 5215/40 review of instruction. This instruction will automatically expire 5 years after effective date unless reissued or canceled prior to the 5-year anniversary date, or an extension has been granted.

M. R. MOORE
Captain, U.S. Navy
Chief of Staff

Releasability and distribution: This instruction is cleared for public release and is available electronically only via CNIC G2 Portal/Organization/Mid-Atlantic Website, https://g2.cnic.navy.mil/CNRMA/Pages/Default.aspx

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

IN REPLY REFER TO:

COMNAVREGMIDLANTISNT 11011.11B
N4/ARE
MAY 1 1 201/

COMNAVREG MIDLANT INSTRUCTION 11011.11B

From: Commander, Navy Region Mid-Atlantic

Subj: SITE APPROVAL REQUIREMENTS AND PROCESS

Ref: (a) COMNAVREGMIDLANTINST 5090.2
(b) NAVFACINST 11010.45
(c) NOSSAINST 8020.22
(d) OPNAVINST 11010.33C
(e) NAVFAC BMS B.25.3.1-4
(f) SECNAV M-5210.1 of Jan 2012
(g) OPNAVINST 5215.17A

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

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

a. Regional Commanders are responsible for the management of land and facilities. Planning documentation will be prepared and submitted, per references (a) through (g). 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 development plans, sustainable development principles, environmental restoration land use controls following reference (a), and all applicable laws and regulations.

b. Site approval is not required for routine maintenance and routine repair of facilities. Under reference (b), site approval is required for all actions sited on Navy-controlled land holdings, regardless of funding source. Site approvals are granted based upon the information in the request. If the site approval is in support of a proposed project, regardless of funding, it must be revalidated by the Public Works Department (PWD) staff prior to project start. The site approval becomes invalid if any of the following terms are violated:

(1) Any conditions in the original request materially change;

(2) Project scope or location is altered in any manner from the information that the

certification was granted;

(3) Explosive safety related site approvals granted under the Safety Assessment for Explosives Risk (SAFER) exceed five years. If the site approval has exceeded five years, it must be revalidated.

2. Cancellation. COMNAVREGMIDLANTINST 11011.11A.

3. Action

a. Initiating activities shall:

(1) Submit site approval requests for the following:

(a) Any project or real estate action that will have explosives safety criteria implications associated with ammunitions and explosives as described in reference (c).

(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.

(f) Any project or real estate action that disturbs soil, sediment, groundwater, or surface water inconsistent with Land Use Controls (LUCs) or other restrictions in any Installation Restoration (IR) Site or location is within a historic district.

(2) Submit a request for site approval cover letter, enclosure (1), signed by the unit commander, or their designated representative, to the Installation Commanding Officer (ATTN: Public Works Officer). Request cover letters are not required if the PWD is self-generating the site approval.

(3) Work with PWD planner to prepare section (a) of the Naval Facilities Engineering Command (NAVFAC) site approval request form, enclosure (2).

b. NAVFAC Public Works Department shall:

(1) Work with initiating activity to prepare section (a) of the NAVFAC site approval request form.

(2) Process, track, and maintain a record of all activity site approvals except as otherwise described in reference (c) for explosive safety site approvals.

(3) Submit a separate endorsement for relocatable facilities (trailers), found in reference (d), to the Assistant Regional Engineer (ARE) in addition to the site approval process.

(4) Submit the request for site approval to Commander Navy Region Mid-Atlantic (ATTN: Assistant Regional Engineer) for all situations where the activity does not specify a particular installation for the site. At the discretion of the ARE, site approvals may require review and endorsement by the ARE.

(5) 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 Ordinance 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 (3 to 6 months) for processing.

(6) In partnership with the action proponent, 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. In some cases, NEPA documentation is still required when site approval is not (e.g. repair of historic facilities).

(7) Make recommendations for the requirement of an environmental condition of property when in some cases the real estate being proposed for use has previous activities creating potential environmental liability.

4. Forms and Information Management Control. 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 (c) and (d). Environmental checklists vary by state and can be provided by the Public Works Department at the installation.

5. Records Management. Records created as a result of this directive, regardless of media and format, shall be managed per SECNAV Manual 5210.1 of January 2012.

6. Review and Effective Date. Per OPNAVINST 5215.17A, CNRMA will review this instruction annually on the anniversary of its effective date to ensure applicability, currency, and consistency with Federal, DoD, SECNAV, and Navy policy and statutory authority using OPNAV 5215/40 review of instruction. This instruction will automatically expire 5 years after effective date unless reissued or canceled prior to the 5-year anniversary date, or an extension has been granted.

M. R. MOORE
Captain, U.S. Navy
Chief of Staff

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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, National Environmental Policy Act (NEPA) documentation will be initiated and completed to allow this project to be executed.

3. My point of contact for this project (name) at (commercial and DSN phone number), or (E-Mail).

SIGNATURE BLOCK

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

PART I

DIRECTIONS IN NAVFACINST 11010.45

MAY 1 1 2017

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:
- ☐ New Construction
- ☐ Change Use
- ☐ Addition to Existing Facility
- ☐ Major Modification to Existing Facility
- ☐ Relocation of Structure
- ☐ Maintenance and/or Repairs
- ☐ Repair by Replacement
- ☐ Demolition
- ☐ Other

11. Type of Request:
- ☐ Airfield Safety Site Approval
- ☐ Explosives Site/Safety Certification
- ☐ EMR Site Approval
- ☐ 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))
☐ NOSSA ☐ DDESB ☐ SPAWAR ☐ NAVAIR ☐ CNO ☐ OTHER

5. Date Forwarded:

6. Date of Safety Certification:

NOSSA	DDESB	SPAWAR	NAVAIR	CNO	OTHER

SECTION C – FINAL SITE APPROVAL ACTION

1. Approvals:
- ☐ Site Approved
- ☐ Site Disapproved
- ☐ Deferred/Returned
- ☐ Explosives Safety Certification Approved
- ☐ Explosives Safety Certification DISAPPROVED
- ☐ Interim Construction Waiver Approved

2. Certification Identification:

3. Remarks

4. Other Approvals Required
- ☐ Airfield Safety Waiver Required
- ☐ Final Explosives Safety Review Required

5. Approving Official:

6. Date:

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 contactors 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 expediently 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