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**DEPARTMENT OF THE NAVY**

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**APR 15 2004**

U.S. Environmental Protection Agency Region 2  
Division of Environmental Planning and Protection  
Attn: Mr. Walter Mugdan  
Director  
290 Broadway  
New York, NY 10007-1866

Re: Former Live Impact Area at Atlantic Fleet Weapons Training  
Facility (AFWTF) - EPA I.D.#PRD980536221, Vieques, PR

Dear Mr. Mugdan:

Your letter of February 26, 2004 requested the Navy submit a draft RCRA Facility Investigation (RFI) work plan for the Live Impact Area (LIA) pursuant to the RCRA Section 3008(h) Administrative Order between the Navy and EPA. As you know, the Navy and EPA have been working with the Commonwealth of Puerto Rico and the Office of Management and Budget to finalize a National Priorities List (NPL) listing for Vieques which would include the LIA and other range areas on East Vieques. The NPL listing will result in the necessary investigation and/or clearance/cleanup efforts being conducted under CERCLA within the framework of a Federal Facilities Agreement (FFA) between the Navy, EPA, the Department of the Interior (DOI), and the Commonwealth. In anticipation of the addition of Vieques to the NPL and in accordance with typical CERCLA protocol, the Navy is developing a draft Site Inspection (SI) work plan for munitions and explosives of concern on the former Vieques Navy Training Range (VNTR), which will include investigative work in the LIA, the Surface Impact Area, and the Eastern Maneuver Area. This SI will build upon the information provided by the Preliminary Range Assessment for the former range on eastern Vieques, which the Navy submitted last year. This draft SI work plan should be delivered to EPA Region 2, DOI, and the Puerto Rico Environmental Quality Board (EQB) for review by May 21, 2004.

Additionally, one of the first actions planned by the Navy, after the addition of portions of Vieques to the NPL, is the cooperative development of a comprehensive Site Management Plan (SMP), which will set out a process for prioritizing all cleanup and clearance work required for the formerly Navy-managed areas. This SMP will be fully coordinated with EPA, DOI, and the Commonwealth and will provide a schedule for future efforts that can be updated annually to account for work progress and changes in priorities. The Navy anticipates this initial SMP effort will require 10 months to complete.

Re: Former Live Impact Area at Atlantic Fleet Weapons Training Facility (AFWTF) - EPA I.D.#PRD980536221, Vieques, PR

The Navy is fully committed to meeting its environmental cleanup and munitions clearance responsibilities, and it anticipates a cooperative working relationship with EPA, DOI, the Puerto Rico Environmental Quality Board (EQB) and other agencies and stakeholders to ensure that environmental cleanup and munitions clearance concerns are adequately identified and prioritized, and appropriate action taken. Under a CERCLA regime, substantive RCRA requirements are either Applicable or Relevant and Appropriate Requirements (ARARs), which means that they will be included in any investigation and response action conducted under the CERCLA protocol within the framework of the Vieques FFA.

We recognize that the Navy is still operating under a RCRA Consent Order, and agree that SWMU 3 (the OB/OD area inside the LIA) should be addressed under the current Order pending NPL listing. Thus, in accordance with that Order, the Navy is addressing the Open Burning/Open Detonation Area within the LIA (the response to EPA's comments on the work plan for investigation of that area will be sent via separate correspondence). We are concerned, however, about the seemingly unilateral expansion of the Order beyond its terms. The Order clearly contemplates a mutual agreement prior to initiating work at SWMUs 3, 9, and 11 under the Order's terms (see Sections 7.d., 22, and 23). In that SWMU 3 was the subject of a part B permit application that has been subsequently withdrawn, the Navy agrees to SWMU 3 falling under the Order pending NPL listing. The Navy does not believe that circumstance is applicable to SWMUs 9 or 11. Given these provisions and our understanding that any investigation and/or clearance/cleanup efforts for the LIA are to be conducted under a CERCLA protocol, we believe it is not productive to submit a RCRA RFI for the LIA at this time.

If you disagree with our assessment of the current Navy and EPA position on this matter, a meeting involving headquarters personnel from each agency and any other necessary participants may be necessary. Our headquarters point of contact is Paul Yaroschak, Director for Environmental Compliance and Restoration, in the office of the Assistant Secretary of the Navy for Installations and Environment.

Sincerely,



PAUL A. RAKOWSKI, P.E.

Head

Environmental Programs Branch

Environmental Division

By direction of the Commander