



DEPARTMENT OF THE NAVY

NORTHERN DIVISION
NAVAL FACILITIES ENGINEERING COMMAND
10 INDUSTRIAL HIGHWAY
MAIL STOP, #82
LESTER, PA 19113-2090

IN REPLY REFER TO

5090
Ser 1785/1821/TS

DEC 21 1992

Robert J. Wing, Chief
Federal Facilities Section
USEPA Region II
Jacob K. Javits Federal Building
New York, New York 10278

Dear Mr. Wing:

This is in response to your 30 October 1992 letter proposing to initiate Federal Facility Agreements (FFA) prior to the final listing of Naval Weapons Industrial Reserve Plants Calverton and Bethpage on the NPL.

Our experience has been similar to yours, in that the negotiations of FFAs are often prolonged. However, it has not been the case that an FFA negotiation has caused a delay in a response activity at any Navy site managed by this command. On the contrary, it has always been the Navy position that the Installation Restoration process is to continue while the negotiations are ongoing.

This office is inclined to accept your invitation for early negotiation, but we do so cautiously. Historically, the reason many FFAs have been difficult to consummate is the deviation from the EPA/DOD model language proposed by party negotiators. Thus, if your invitation is to consider language already accepted by the Navy and Region II (ie: NWS Earle and NAEC Lakehurst), then protracted EPA/NAVY negotiations are not needed and we should jointly present the terms to the State of New York. It is important to remember that the Navy is already conducting a RI/FS at both sites with involvement of both EPA and the State. The FFA will document, but not alter, responsibilities and procedures already being followed by our three agencies.

Your letter indicates that EPA will formally initiate negotiations upon receipt of a favorable response. Since these facilities are not yet listed on the NPL, we believe that a "formal negotiation" process is premature and not appropriate. We are typically informed that EPA guidance directs certain negotiation schedules and procedures for the formal process (ie: completion of negotiations within 90 days). Since the personnel that are currently conducting the IR process at Calverton and Bethpage will be needed for the FFA negotiations, we prefer not to be in a position to have to defer onsite work in order to meet

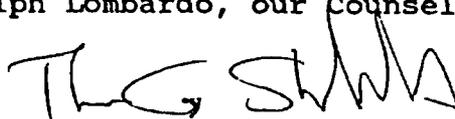


a schedule for completing an FFA at a location that still may not be listed on the NPL.

Our ultimate goal is to conduct and complete appropriate response activities onsite as soon as possible. As such, this office will be happy to work with EPA Region II in developing a pre-listing FFA provided:

1. That any negotiated FFA would not become effective until after listing on the NPL.
2. That the FFA language taken from either the FFAs completed for NAEC Lakehurst or NWS Earle be accepted by Region II.
3. That the pre-listing negotiations be conducted in an informal manner without required schedules or commitments to utilize certain and limited resources for the negotiations.
4. In the event that the informal negotiations impact the ongoing onsite work, in any way, any party may terminate negotiations at any time.

We will await your reply regarding this proposal. If you have any questions, please don't hesitate to call myself at (215)595-0567 or Mr. Ralph Lombardo, our Counsel at 595-0606.



T. G. SHECKELS
Head, Restoration Management Section
By direction of the Commanding Officer

copy to:
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