



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 1
JOHN F. KENNEDY FEDERAL BUILDING
BOSTON, MASSACHUSETTS 02203-0001

February 26, 1999

Mr. Philip Otis
U.S. Department of the Navy
Northern Division - NAVFAC
10 Industrial Highway
Code 1811/PO - Mail Stop 82
Lester, PA 19113-2090

Re: Draft Final Record of Decision for Calf Pasture Point, Site 7, dated February 1999, at the
Former Naval Construction Battalion Center, Davisville, RI

Dear Mr. Otis:

Please find attached the Environmental Protection Agency's (EPA) comments on the above
referenced document. If you have any questions with regard to this letter, please contact me at
(617) 918-1384.

Sincerely,

A handwritten signature in cursive script that reads "Christine A.P. Williams".

Christine A.P. Williams
Remedial Project Manager
Federal Facilities Superfund Section

Enclosure

cc: Richard Gottlieb, RIDEM
Walter Davis, CSO
David Peterson, EPA
Christi Davis, NORTHDIV
Marilyn Cohen, ToNK
Howard Cohen, RIEDC
Anne Heffron, Applied Enviro-Tech, Inc.
Marjory Myers, Narragansett Indian Tribe
Eileen Curry, Dynamac
Jane Connet, EA
Dan Sullivan, FWENC

EPA Comments on Draft Record of Decision for Site 07 - Calf Pasture Point

1. Declaration, Page 2, 1st bullet, last sentence - Insert “the Navy,” after “approved by.”

Add at the end: “The Grantee under the deed shall be required to submit a yearly certification to the Navy, EPA and RIDEM of compliance with the deed restrictions. The groundwater and land use restrictions contained in the deed shall be incorporated into an Environmental Land Use Restriction which also shall be filed and recorded by the Navy or disposal agency in the land records of the Town of North Kingston, State of Rhode Island, in accordance with state and local law. This will permit the restrictions to run with the land and be enforceable by the Navy, EPA and RIDEM against any future Successors in Interest”

2. Declaration, Page 2, 2nd bullet, last sentence - insert the statement, “Long Term Monitoring Plans will be submitted for regulatory agency review and concurrence. Performance standards satisfactory to Navy, EPA and RIDEM will be developed during the Remedial Design Phase.”
3. Decision Summary, Page 2, last ¶, 3rd sentence - for clarity figures should be cited to show the contaminated groundwater location.
4. Decision Summary, Page 6, last ¶, last sentence - Replace “agencies” with “Navy, EPA and RIDEM.”

5. Decision Summary, Page 21, 1st ¶, last sentence - Insert “the Navy,” after “approved by.”

Add at the end: “The Grantee under the deed shall be required to submit a yearly certification to the Navy, EPA and RIDEM of compliance with the deed restrictions. The groundwater and land use restrictions contained in the deed shall be incorporated into an Environmental Land Use Restriction which also shall be filed and recorded by the Navy or disposal agency in the land records of the Town of North Kingston, State of Rhode Island, in accordance with state and local law.”

6. Decision Summary, Page 34, 1st bullet, 6th sentence - Insert “the Navy,” after “approved by.”

12th sentence - Add at the end of the sentence: “to the Navy, EPA and RIDEM.”

Last sentence - Replace “agencies” with “Navy, EPA and RIDEM.”

7. Decision Summary, Page 34, add a new 2nd bullet -

The groundwater and land use restrictions contained in the deed shall be incorporated into an Environmental Land Use Restriction(ELUR) which also shall be filed and recorded by the Navy or disposal agency in the land records of the Town of North Kingston, State of Rhode Island. The filing and recording of the

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ELUR shall be in accordance with state and local law, without limitation, declarations(s), of covenants, conditions, and restrictions that run with the land setting forth the ELUR and compliance therewith. The form and substance of the Declaration and any future declarations(s) shall be those determined in the sole and absolute discretion of EPA, in consultation with RIDEM, and shall be subject to review and approval by EPA, in consultation with RIDEM, prior to filing. All such declaration(s) shall be enforceable by the United States and the State of Rhode Island and shall provide that these persons have the right to inspect the Subject Area at reasonable times and with prior notice, unless an emergency situation exists, to assess compliance with the declaration .

The ELUR and obligations set forth in this ROD shall be binding upon any Successors in Interest and Assigns. In the event the Subject Area is transferred by deed, the Navy shall request the disposal agency to ensure that any deed, lease, or other instrument of conveyance for the Subject Area shall: (a) contain a notice that the Subject Area and any interest in the Subject Area is subject to the restrictions and obligations of this ROD; (b) contain such restrictions and obligations; and (c) include agreement by the transferee of the interest in the Subject Area to comply with such restrictions and obligations. Prior to any transfer of any interest in the Subject Area the prospective Successor in Interest shall be provided with a copy of this ROD.

8. Decision Summary, Page 36, 1st ¶ - The RI Rules and Regulations for the Investigation and Remediation of Hazardous Materials are not ARARs, since they include a specific exclusion (Rule 4.02) for NPL sites. To date, the RI Remediation Rules and Regulations have not been applied as an ARAR to any other NPL site in the State. EPA understands that the State is planning on revising its regulations to remove this exclusion. If the regulations are re-promulgated to remove the exclusion, then the revised regulations could potentially become an ARAR if they are substantive to the remedy and are more protective than federal standards. However, the current groundwater remediation standards in the Remediation Regulations are equal to (and not more protective than) the federal Safe Drinking Water Act MCLs, which are an ARAR for this Site, for the site contaminants of concern (COC). If re-promulgated regulations were to become more protective and would require modification of the remedy, the proper process to address the change would be through an Explanation of Significant Difference (ESD) or ROD amendment (depending on the significance of the required change).

9. Decision Summary, Page 37, Sec. XII - Add a third bullet: "The groundwater and land use restrictions contained in the deed shall be incorporated into an Environmental Land Use Restriction which also shall be filed and recorded by the Navy or disposal agency in the land records of the Town of North Kingston, State of Rhode Island in accordance with state and local law."

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10. Appendix B, Page 5, Navy Response (5) - Add at the end: "The groundwater and land use restrictions contained in the deed shall be incorporated into an Environmental Land Use Restriction which also shall be filed and recorded by the Navy or disposal agency in the land records of the Town of North Kingston, State of Rhode Island in accordance with state and local law. This will permit the restrictions to run with the land and be enforceable by the Navy, EPA and RIDEM against any future Successors in Interest."

11. Appendix B, Page 5, Navy Response (6), 2nd sentence - Replace "RIDEM's Remediation Regulations" with "The Federal Safe Drinking Water Act."

12. Appendix B, Page 6, Navy Response (8), 2nd sentence - Insert "and Environmental Land Use Restriction."

13. Table D-1 - Since the ARARs listed in the chemical-specific table apply to monitoring only and not to groundwater cleanup they should be listed as Action-specific ARARs. (Table D-3, pages 2 and 3) There are no Chemical-specific ARARs for this alternative.

14. Table D-1, Page 2 - Remove the RI Remediation Regulations since they include a specific exclusion (Rule 4.02) for NPL sites. To date, the RI Remediation Rules and Regulations have not been applied as an ARAR to any other NPL site in the State. EPA understands that the State is planning on revising its regulations to remove this exclusion. If the regulations are re-promulgated to remove the exclusion, then the revised regulations could potentially become an ARAR if they are substantive to the remedy and are more protective than federal standards. However, the current groundwater remediation standards in the Remediation Regulations are equal to (and not more protective than) the federal Safe Drinking Water Act MCLs, which are an ARAR for this Site, for the site COCs. If re-promulgated regulations were to become more protective and would require modification of the remedy, the proper process to address the change would be through an Explanation of Significant Difference (ESD) or ROD amendment (depending on the significance of the required change).