



**Navy Response to EPA Comments on the
Draft Final Record of Decision
for Site 07 – Calf Pasture Point
Naval Construction Battalion Center
Davisville, Rhode Island**

**Contract No. N62472-92-D-1296
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Prepared for

**Department of the Navy
Northern Division
Naval Facilities Engineering Command
10 Industrial Highway
Mail Stop No. 82
Lester, Pennsylvania 19113-2090**

Prepared by

**EA Engineering, Science, and Technology
175 Middlesex Turnpike, Third Floor
Bedford, Massachusetts 01730
781.275.8846**

**Navy Response to EPA Comments on the
Draft Final Record of Decision for Site 07 – Calf Pasture Point
NCBC Davisville, Rhode Island**

This document contains the Navy's responses to the United States Environmental Protection Agency (EPA) Region I comments on the Draft Final Record of Decision (ROD) for Site 07 on Calf Pasture Point at the former Naval Construction Battalion Center (NCBC) Davisville, Rhode Island. The Draft Final ROD was issued in February 1999. EPA comments are dated 26 February 1999 & 19 May 1999.

Comment 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".

Response: *The text has been changed accordingly.*

Comment 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 the Navy, EPA, and RIDEM will be developed during the Remedial Design Phase."

Response: *The text has been changed accordingly.*

Comment 3: Decision Summary, Page 2, last paragraph, 3rd sentence – for clarity figures should be cited to show the contaminated groundwater location.

Response: *Figures referencing the chlorinated VOC plume in ground water are provided in Section V.d entitled "VOC in Ground Water". Providing plume figures in the referenced paragraph, which discusses RIDEM water classifications, would be confusing to the reader. However, in order to clarify this paragraph for the reader, a reference to Figure 4 has been added and Figure 4 has been modified to show the inferred vicinity of the DANC release.*

Comment 4: Decision Summary, Page 6, last paragraph, last sentence - Replace "agencies" with "Navy, EPA and RIDEM."

Response: *The text has been changed accordingly.*

Comment 5: Decision Summary, Page 21, 1st paragraph, 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.”

Response: *The text has been changed accordingly.*

Comment 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.”

Response: *The text has been changed accordingly.*

Comment 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 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.

Response: *The above text has been incorporated into the first bullet because the action is part of the land-use restriction component of the selected remedy.*

Comment 8: Decision Summary, Page 36, 1st paragraph - 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).

Response: *Based on recent discussions with EPA, the RIDEM Remediation Regulations shall be included in the ROD.*

Comment 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."

Response: *The text has been changed accordingly.*

Comment 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."

Response: *The text has been changed accordingly.*

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

Response: *Based on recent discussions with EPA, the RIDEM Remediation Regulations shall be included in the ROD.*

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

Response: *The text has been changed accordingly.*

Comment 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.

Response: *The text has been changed accordingly.*

Comment 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).

Response: *Based on recent discussions with EPA, the RIDEM Remediation Regulations shall be included in the ROD.*

19 May 1999 E-Mail Comments

Page 34: Red Lined Draft Final, section X, Selected Remedy, Deed Restrictions, add the following to the end of the bulleted section: "An inspection of the institutional controls will be performed in accordance with a checklist contained in Appendix F

on a yearly basis unless a change in frequency or content is approved by the Navy, EPA and RIDEM.”

Response: *The following change is proposed in lieu of the requested change. Add as the end of Section X.*

Within 90 days of this ROD, the following will be submitted as Primary Documents subject to the review and comment process in Section VII of the FFA:

- *Draft Conceptual Long Term Monitoring Plan for Calf Pasture Point, Site 7;*
- *Draft Memorandum of Agreement Among the U.S. Navy, U.S. Environmental Protection Agency, Rhode Island Department of Environmental Management, and the Town of North Kingstown, Rhode Island (with Attachments);*
- *Attachment 1 - Naval Construction Battalion Center, Calf Pasture Point - Site 07, Institutional Control (IC) Inspection Criteria;*
- *Attachment 2 - Environmental Covenants, Conditions, Reservations, Parcel 9 Zone 3, Calf Pasture Point, NCBC Davisville, RI; and*
- *Class 1 Survey for Building Construction/Development Ventilation Approval Requirement.*

Page 34: Red Lined Draft Final, Section X, Selected Remedy, Long Term Monitoring bullet, change the second sentence in the second paragraph to read: “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. The plan will be based on the Conceptual Long Term Monitoring Plan, which is included as Appendix G, unless a change is approved by the Navy, EPA and RIDEM.”

Response: *Please see response to previous comment.*

Page 36: Red Lined Draft Final, Section XI, Statutory Determinations, The Selected Remedy Attains ARARs: the reference to RI Remediation Regulations would be dropped as was requested in our 2-26-99 comment letter and in its place at the end of the list add the following sentences:

"This remedy is protective of human health and the environment in that it meets the NCP criteria, and at the completion of the remedy, will fall within EPA's risk range for exposure to cancerous and non-cancerous substances in groundwater.

Also, once complete, this remedy falls within the risk range for exposure to cancerous and non-cancerous substances for groundwater set out in the Rhode Island Remediation Regulations."

Response: *As discussed with EPA, revised wording has been included.*