



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION I  
JOHN F. KENNEDY FEDERAL BUILDING  
ONE CONGRESS STREET  
BOSTON, MASSACHUSETTS 02203-2211

June 30, 1995

Mr. Al Haring  
U.S. Department of the Navy  
Northern Division - NAVFAC  
10 Industrial Highway  
Code 1823 - Mail Stop 82  
Lester, PA 19113-2090

Re: Notification of Non-Compliance with the Naval Construction Battalion Center Davisville Federal Facility Agreement, dated March 23, 1992, as amended -- Draft Phase III Remedial Investigation Report for Allen Harbor Landfill (Site 9)

Dear Al:

The purpose of this letter is to notify you of the Navy's non-compliance with the Naval Construction Battalion Center (NCBC) Federal Facility Agreement, dated March 23, 1992, as amended, (FFA) in connection the required submission of the Draft Phase III Remedial Investigation Report for Allen Harbor Landfill Management of Migration Operable Unit (Draft Phase III RI).

I. FFA Non-Compliance

Reference is made to the following:

- A. The schedule agreed to by the parties under the FFA requires that the Navy submit a complete Draft Phase III RI on or before May 19, 1995.
- B. EPA received a materially incomplete Draft Phase III RI Report, dated May 19, 1995, from the Navy on May 22, 1995.
- C. EPA received an undated letter on June 6, 1995 in which the Navy stated that "due to time constraints," the Draft Phase III RI was issued without the inclusion of the following five items:
  1. Validation of analytical data from the Phase III RI and the marine and terrestrial ecological risk assessments.
  2. Rapid bioassessment metrics associated with the collection of biotics in fresh/terrestrial environments.
  3. Ecological surface water assessment in Allen Harbor.



4. Flow and fate-transport modeling of ground water beneath the Allen Harbor landfill, including the estimated volume of leachate potentially discharging into the harbor.
  5. Additional analysis of sediment pore water chemistry, sediment metals, and non-chemical bivalve and neoplasia work, followed by statistical interpretation.
- D. All of the missing parts of the Draft Phase III RI were material parts of document contained in the Navy's Phase III RI Workplan, which has not issued by the Navy in a complete form.

In view of the foregoing, the Navy has not submitted a complete Draft Phase III RI as required by the FFA and as defined in the approved Phase III RI Workplan. Until the Navy submits the missing material parts of the report referenced in item I.C. above, the Navy has not complied with the requirements of FFA Sections 6.4(c), 7 and 14.

## II. Review of Incomplete Draft Phase III RI Report

Under the FFA, EPA has 45 days to review a draft primary document and submit comments to the Navy. Had a complete Draft Phase III RI been submitted as required under the FFA on May 19, 1995, EPA's comments would have been due on July 3, 1995. However, since material parts (referenced item I.C. above) are missing from the incomplete Draft Phase III RI received by EPA on May 22, 1995, EPA cannot complete its review until these parts have been submitted. These missing parts are essential to the full understanding of the nature and extent of contamination at the Allen Harbor Landfill and, therefore, to EPA's review of the Draft Phase III RI.

Accordingly, EPA will provide the Navy with comments on the entire Draft Phase III RI within 45 days after all five of the missing parts of the document have been received. EPA has, however, conducted a preliminary review of the incomplete document, and has a number of significant preliminary comments. I am enclosing these preliminary comments at this time in order to give the Navy the opportunity to begin working on them as soon as possible.

## III. Submission of Missing Portions of the Draft Phase III RI

The Navy stated in the letter referenced in item I.B. above that two of the missing parts of the report would be submitted by July 5, 1995. The model was received by EPA on June 15, 1995.

The Navy has not yet provided a comprehensive schedule for the

other missing parts of the document. Please provide such a schedule by July 7, 1995.

The schedule for the Management of Migration OU calls for the Proposed Plan to be issued by November 1995. The National Contingency Plan and the FFA require that the Remedial Investigation and Feasibility Study reports be complete prior to the start of the public comment period on the Proposed Plan. Therefore, the remaining parts of the report should be submitted by July 24, 1995 in order to allow for sufficient time for EPA and the State to review the documents and for the Navy to make appropriate revisions.

Accordingly, please be advised that, if the Navy fails to submit all of the missing parts of document referenced in item I.C. above by July 24, 1995 EPA will consider assessing stipulated penalties from May 19, 1995, the date when the Draft Phase III RI was due.

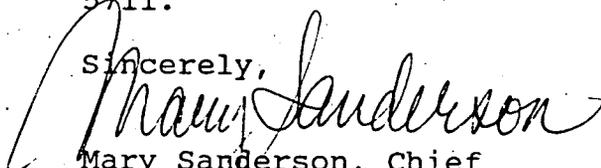
In view of the recent progress the Navy has made at NCBC, and great strides the Navy, EPA and the State have made in forging a team to implement the President's Fast Track Cleanup Program, I very much regret the necessity of having to write this letter.

I am quite frankly surprised, however, that the Northern Division would submit a materially deficient primary document in view of the recently settled Naval Education and Training Center Newport (NETC), stipulated penalties assessment. As you know, EPA assessed stipulated penalties at NETC because of the Navy's submission of materially deficient Draft Phase II RI Reports for McAllister Point Landfill and the Old Fire Fighter Training Area, and the Navy agreed to a settlement in the amount of \$130,000.

The Navy needs to be proactive in managing project schedules and should work through the BCT to request FFA schedule extensions, should they be needed.

If you have any questions, or would like to arrange a meeting to discuss this matter, please feel free to contact me at (617) 573-5711.

Sincerely,

  
Mary Sanderson, Chief  
Federal Facilities Superfund Section

Attachment

cc: Robert Krivinskas, NAVFAC  
Lou Fayan, NCBC  
Terrence Grey, RIDEM  
Warren Angell, RIDEM  
Judy Graham, RIDEM

Tim Prior, USF&WL  
Ken Finkelstein, NOAA  
Linda Rutsch, EPA OSWER  
William Frank, EPA FFEO  
Christine Williams, EPA

## EPA Preliminary Comments

1. This document is a simple statement of the facts with no explanations of field anomalies or the effects on the data. The matter of fact style of the document leaves the reviewer with many unanswered questions. The document should also interpret the data for the reader.

2. The fact that the monitoring well parameters have totally changed after evacuation, further development and purging indicates that maybe this water is not at equilibrium and is not representative and that the resultant chemical data is in error or at least biased.

3. The fact that the reported analytical data was not validated also makes evaluation of the results somewhat problematic. Some of the detected compounds may be real or they may be due to blank contamination.

4. The solute transport modeling is based on modeled hydraulic conductivity. The Navy did not use the site specific data gathered as part of the slug tests performed as part of the field investigation. The hydraulic conductivity model is based on qualitative grain size analysis. The Navy did not conduct sieve analysis on the borings. No supporting calculations were provided for many of the conclusions. Therefore, without site specific supporting documentation and without supporting calculations, the Navy has not sufficiently supported the contaminant transport conclusions.

5. Revision of the Screening of COCs for the Human Health Risk Assessment

Risk based concentrations (RBCs) for noncarcinogens are the values based on a Hazard Index of 0.1, not 1.0 (explained in EPA comments Dec. 1994). This needs correction and revise COC list accordingly.

Chemicals detected in both shallow and deep groundwater should be retained as COCs. For example, aluminum (Table 6-4) is a COC in shallow groundwater, but is not included as a COC in deep groundwater. It should be retained as a COC in deep groundwater.

Surface water COCs should not be excluded if the same chemicals are identified as groundwater COCs.

6. Revision of the Screening of COCs for the Ecological Risk Assessment

The CoC screening process may have underestimated the number of CoCs that should have been carried through the risk analysis. Key COCs were omitted. The Navy has not used the lowest published screening value (i.e.; acute rather than chronic AWQC values)

7. TRV derivation has significantly differed, with the resulting risks being biased low, from the most recent ERA submitted by the Navy (Sites 5 & 8 terrestrial ERA). Also some of the TRVs used were more than 1 order of magnitude higher than published literature values. The TRV derivation problems previously identified in the 5 & 8 ERA have not been corrected.

8. Fish and shellfish BAFs reported by the Navy for the off-shore ERA are several orders of magnitude higher than the BAFs reported by the Navy in this terrestrial ERA. This may also underestimate the risks.

9. Data summaries were not extensive and CoCs were not related to site specific data. Additional data summaries should be included for average, maximum, minimums and the standard deviations by physical media and tissue analysis. HQs should be developed for surface water and pore-water data, (If pore-water was not sufficient for direct analysis, equilibrium partitioning could be used). HQs should be summed and presented for each zone. The HQs should be compared with the toxicity results, condition indices and incidence of neoplasia. These additional data presentations may shed some light on which CoCs are causing the toxicity.