Minnesota Pollution Control Agency

response provided in 5/9/96 letter

December 19, 1995

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Scott Glass, Code 18610
Commanding Officer
Southern Division
Naval Facilities Engineering Command
P.O. Box 190010
North Charleston, South Carolina 29419-9010

RE: Naval Industrial Reserve Ordnance Plant Site Management Plan

Dear Mr. Glass:

The Minnesota Pollution Control Agency (MPCA) staff has reviewed the draft Site Management Plan (SMP), dated October 31, 1995. The draft SMP is for the Naval Industrial Reserve Ordnance Plant Site and was submitted pursuant an enforcement action taken by the U.S. Environmental Protection Agency (EPA) in accordance with the Federal Facility Agreement (FFA), dated March 27, 1991, between the MPCA, the EPA, and the U.S. Navy (Navy). This letter also addresses the issue of future stipulated penalties for noncompliance with the FFA.

Site Management Plan

The draft SMP is hereby approved as modified by Attachment 1 to this letter.

Stipulated Penalties

The MPCA staff agrees to modify the FFA in the matter of stipulated penalties for noncompliance with the FFA. This matter is outside the scope of the SMP and, therefore, will be addressed separately. For the MPCA staff, this means requesting the MPCA Citizens Board approval of the modification.

The MPCA staff hereby proposes that to settle the issue of any ambiguity regarding stipulated penalties is to change the phrase "an amount not to exceed" to "the amount of" in the third sentence of Section 31.1 on page 67 of the FFA.

If you have any questions regarding this letter, please contact me at (612) 296-7818.

Sincerely,

David Douglas
Project Manager
Response Unit 1
Site Response Section
Ground Water and Solid Waste Division

DD:ch

Enclosure

cc: Sidney Allison, Navy, Southern Division
David Cabiness, Navy, Southern Division
Steve Shakman, Special Assistant Attorney General
Thomas Bloom, U. S. Environmental Protection Agency

Attachment I

Naval Industrial Reserve Ordnance Plant
Draft Site Management Plan,
dated October 31, 1995

The U.S. Navy (Navy) shall modify the draft Site Management Plan as follows:

Section I. Introduction

The Navy shall cite the applicable provisions of the Federal Facility Agreement (FFA) that the Navy believes provides for the Site Management Plan (SMP).

The first sentence shall be modified to add the following narrative between "prepared" and "pursuant," "as part of settlement of the dispute over stipulated penalties which have been assessed by the U.S. Environmental Protection Agency ("USEPA") against the Department of the Navy ("Navy"). The following narrative shall be deleted from the same sentence because the SMP should be agreed to before the FFA is modified: "as thereafter amended by the Parties on _____."

The following narrative shall be added as Item 5 in the second sentence of the first paragraph:

> "5. Due dates that are enforceable under the FFA."

Section II. Site Management Strategy

The goals of the SMP shall not conflict with those of the FFA. Since funding difficulties are covered in the FFA under Force Majeure provisions, all statements that mean or imply the "no dough, no go" concept shall be removed from the SMP, e.g., "...the enhancement of program flexibility to meet ...resource constraints" could be interpreted as a "no dough, no go" concept and shall be deleted from the SMP.

The Navy shall eliminate all references to the Installation Restoration Program (IRP) in the SMP. The Minnesota Pollution Control Agency (MPCA) staff views the IRP as an internal Navy program that is beyond the scope of the FFA. How the Navy implements its requirements under the FFA is the Navy's business. The goals and requirements of the investigation and cleanup of the Naval Industrial Reserve Ordnance Plant (NIROP) Site have been memorialized in the FFA. It is not necessary or relevant for the Navy to state what the goals of the IRP are for purposes of this SMP. The Navy shall change all references to the "IRP" to the "SMP," where appropriate.

Section III. Operable Units

The SMP shall indicate that the sum of all the operable units shall encompass the Site as defined by the FFA. This definition of "Site" does not stop or start at property lines. The Navy shall review the definition of "Site" in the FFA and redefine the operable units accordingly. Note that "Site" as defined by the FFA "... includes any area outside or off of the NIROP Fridley a hazardous substance, pollutant, or contaminant has been deposited, stored, disposed of, or placed, or otherwise come to be located..." The description of the operable units in this draft does not comply with the FFA definition of "Site;" e.g., Operable Unit 3 (OU3) is not restricted to the soil under the part of the Main Industrial Building owned by the United States 83 acre facility, it includes all of the soil under this building that may have contributed to the ground water contamination and any other property contributing to Site contamination as defined by the Minnesota Environmental Response and Liability Act and the Comprehensive Environmental Response, Compensation and Liability Act.

The SMP shall define the operable units pursuant to existing MPCA correspondence, e.g., the August 30, 1995, MPCA staff letter from Jim Warner to David Cabiness and shall state that OU2 and OU3 are now combined in OU3 for the OU3 Remedial Investigation (RI)/Feasibility Study/Remedial Design/Remedial Action. The SMP shall reflect the sequencing of work described in the letter dated August 30, 1995. For example, the Navy shall add the dense nonaqueous phase liquid (DNAPL) investigation in the SMP. DNAPL, if present, is a source to ground water contamination. The Navy shall assign DNAPL to an operable unit and this shall be reflected in the SMP. The Navy shall review the August 30, 1995, letter and incorporate the sequence of events identified in this letter in the SMP.

In addition, the Navy has stated that the Navy may produce a separate report that incorporates OU1, OU2 and OU3 data to meet the intent of the August 30, 1995, MPCA staff letter. If this is the way the Navy wants to proceed, the Navy shall outline this approach in the SMP.

Section IV. Installation Restoration Program Goals and CY 1996 Deliverables

Pursuant to the MPCA staff letter of August 30, 1995, the MPCA staff does not require the Navy to produce the following for OU2 and shall eliminate them from the SMP: a draft and final Proposed Plan; a Responsiveness Summary to the Proposed Plan; and a draft and final Record of Decision. After the Navy completes the work the MPCA staff required in its letter of August 30, 1995, the MPCA staff views OU2 and OU3 as OU3 with the former "OU2" viewed as a subunit of OU3.

The Navy shall list in the SMP all documents it believes are primary documents and all documents it believes are secondary documents as these terms are defined by the FFA.

V. Schedule

The Navy shall eliminate the second paragraph that begins "Consistent with..." and ends with ...under the FFA."

The Navy shall replace this paragraph with the following paragraph:

> "First and second year dates may change with cause pursuant to the FFA. The Navy may seek schedule extensions of the first year dates only in accordance with paragraph 14.7 of the FFA. Second year dates shall be considered tentative as of the date of execution of the SMP."

The Navy shall add the following as the third paragraph:

> "The schedule for the first and second years shall reflect any schedule changes approved by the Navy, MPCA, and EPA pursuant to the FFA. The Navy shall provide a copy of any updated schedule to the MPCA and EPA project managers within two weeks of the approval of an updated schedule. The Navy shall place the current schedule on the agenda as an agenda item for each Restoration Advisory Board (RAB) meeting with a copy of the current schedule attached to the agenda. The Navy shall discuss any schedule revisions made between RAB meetings at the next RAB meeting."

The SMP schedule indicates that seismic imaging of the facility is to take place after the OU3 RI Work Plan. The Navy shall reverse this order and this reversal shall be reflected in the SMP. Seismic imaging shall be used to scope and focus the OU3 RI. Seismic imaging will determine the geologic controls for contaminant movement and the potential DNAPL accumulation. Coupled with other OU3 RI evaluation information, seismic imaging is essential in determining where the OU3 RI should occur.

The Navy shall modify the schedules outlined in Figures 1-3 to reflect the MPCA staff letter of August 30, 1995.