



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION I

J.F. KENNEDY FEDERAL BUILDING, BOSTON, MASSACHUSETTS 02203-2211

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NAVSTA NEWPORT RI
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VIA FACSIMILE AND CERTIFIED MAIL - RETURN RECEIPT REQUESTED

May 4, 1994

Franco LaGreca, Chief
U.S. Department of the Navy
Northern Division
Naval Facilities Engineering Command
10 Industrial Highway
Code 1823, Mail Stop 82
Lester, PA 19113-2090

RE: Assessment of Stipulated Penalties for Non-Compliance with
the Federal Facility Agreement for the Naval Education and
Training Center, Newport, Rhode Island.

Dear Mr. LaGreca:

By the letter to Deborah Carlson dated April 21, 1994, EPA notified the Navy that it is out of compliance with the Federal Facility Agreement (FFA), dated March 23, 1992, as amended, for the Naval Education and Training Center (NETC), Newport, Rhode Island, as a result of the Navy's failure to submit complete draft Phase II Remedial Investigation (RI) reports for the McAllister Point landfill and the Old Fire Fighting Training Area. EPA notified the Navy of the lack of complete draft RI reports for McAllister Point landfill, which was due to EPA no later than February 14, 1994, and the Old Fire Fighting Training Area, which was due to EPA no later than March 31, 1994. Specifically, the Navy had failed to submit the ecological risk assessments which are required as part of the draft Phase II RI reports for both McAllister Point landfill and the Old fire Fighting Training Area.

By letter dated April 29, 1994, the Navy indicated that ecological risk assessments for the McAllister Point landfill and the Old Fighting Training Area will be submitted to EPA no later than May 30, 1994. The Navy also indicated that, based on recent findings, additional work will be required for the offshore sediments at McAllister Point in order to complete the ecological risk assessment. The Navy indicated that the draft workplan outlining this additional work will be submitted to EPA by June 15, 1994.

Until the Navy completes and submits the outstanding ecological risk assessment reports, the Navy has not complied with the requirements of FFA Sections 6.4(c), 7.2 and 14.

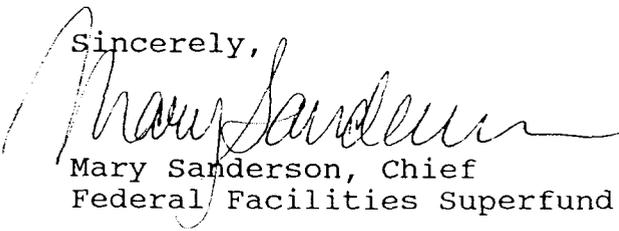


Accordingly, the Navy has not complied with these provisions as of February 14, 1994 for the submission of the draft Phase II RI report for McAllister Point landfill and March 31, 1994 for the Old Fire Fighting Training Area. Pursuant to Section 22.1 of the FFA, EPA hereby assesses stipulated penalties for each violation of the FFA up to the amount of \$5,000 per violation for the first week of non-compliance and up to \$10,000 per violation for each additional week that the outstanding ecological risk assessments are not submitted. Although EPA cannot assess a specific amount of stipulated penalty owed until the termination of the Navy's non-compliance with the FFA, the Navy should consider this letter to provide notice of the violations in accordance with Section 22.2 of the FFA.

As a final note, you should know that EPA is very concerned about the Navy's failure to complete the ecological risk assessment for McAllister Point landfill. As you know, the source control Record of Decision (ROD) for the McAllister Point landfill required the Navy to determine among other items, "[t]he nature, extent and location of near-shore sediments which may have been affected by site-related contamination and whether they will be addressed by a separate remedial action or excavated and consolidated under the cap." The Navy is required to make that determination as part of a management of migration operable unit, the ROD for which must be issued before commencement of construction of the landfill cap. EPA is concerned that the delay in the completion of the ecological risk assessment is jeopardizing the Navy's ability to complete the management of migration Record of Decision within this timeframe. The Navy should ensure that all work associated with investigating the nature, extent and location of near-shore sediments which may have been affected by the McAllister Point landfill will be completed and a management of migration ROD be issued prior to the Navy's commencement of construction of the landfill cap no later than December 27, 1994. EPA will not be inclined to agree with the establishment of a third operable unit for near-shore sediments at McAllister Point if the Navy's delay in completing the ecological risk assessment is the reason that such a division is requested.

If there are any questions regarding this matter, please feel free to contact either Andrew Miniuks at 617/573-9614 or me at 617/573-5711.

Sincerely,



Mary Sanderson, Chief
Federal Facilities Superfund Section

cc: Andrew Miniuks, EPA
Beth Tomasello, EPA-ORC
Susan Svirsky, EPA
Kristen Fadden, EPA
David Webster, EPA
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