



STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

Department of Environmental Management  
DIVISION OF SITE REMEDIATION  
291 Promenade Street  
Providence, R.I. 02908-5767

June 22, 1995

Mr. Frank Ciavatteiri, Deputy Director  
Waste Management Division  
U.S. Environmental Protection Agency-New England Region  
John F. Kennedy Federal Building  
Boston, MA 02203-2211

Dear Mr. Ciavatteiri:

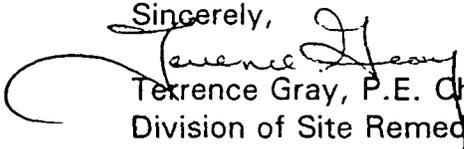
Enclosed are the signed copies of the Settlement Agreement concerning the Assessment of Stipulated Penalties at the Naval Education and Training Center in Newport, RI. Both Captain Waters and I have signed where indicated.

I must note, however, that I am very disappointed in the prolonged procedures and delays we experienced over the past seven months in bringing this matter to closure. In my view, this matter was essentially settled during our conference call on November 1, 1994. I am further disappointed that the State of Rhode Island was neither informed nor involved in these subsequent negotiations but only provided with the outcome, without explanation of what was transpiring and why.

Nonetheless, regardless of the specific negotiations between the two federal agencies, I am pleased that this issue is settled and look forward to the partnering session. Please also note that the Federal Facility Agreement calls for a 50% split of the penalty between the State and the EPA. Please make arrangements to forward said funds to the R.I. Department of Environmental Management for deposit in our Environmental Response Fund.

Please call me or Warren Angell at (401) 277-3872 (extensions 7100 and 7137, respectively) if you have any questions. Thank you.

Sincerely,

  
Terrence Gray, P.E. Chief  
Division of Site Remediation

cc: Timothy R.E. Keeney, Director, R.I. Department of Environmental Management  
James Fester, Associate Director for Air, Solid Waste & Hazardous Materials  
Claude Cote, Esq., Deputy Chief Legal Counsel

## SETTLEMENT AGREEMENT

Whereas the EPA has alleged that the Navy has violated certain terms and conditions of the Naval Education and Training Center Newport (NETC) CERCLA Federal Facility Agreement, dated March 23, 1992 as amended (FFA) (U.S. Environmental Protection Agency, Region I, (EPA) letter dated May 4, 1994);

Whereas the Navy has denied the allegations made by the EPA (Navy letter of September 20, 1994 to EPA and the State of Rhode Island (RIDEM) (Navy statement of dispute);

Whereas the EPA, RIDEM, and the Navy are desirous of resolving the issues raised by EPA's allegations:

Now, therefore, in consideration of the foregoing, pursuant to the FFA Section 13.5, the undersigned, as members of the Dispute Resolution Committee, hereby acknowledge and confirm that we have agreed as follows in order to resolve the dispute:

1. The Navy will make a cash payment stipulated penalty of \$30,000 to the Hazardous Substance Superfund.
2. The Navy will arrange for a partnering session among the parties and contribute \$10,000 to such an endeavor.
3. The Navy will perform a supplemental environmental project (SEP) of not less than \$90,000 at an activity in the State of Rhode Island. The proposed project by the Navy is to accomplish the following:

Removal of approximately 1,500 cubic yards of sandblast grit generated by Robert E. Derecktor of Rhode Island, Inc. at the former Derecktor Shipyard facilities near Newport to eliminate the potential for leaching of heavy metals into Coddington Cove and the exposure to air-borne contaminants.

The scope of work of the project which has been approved by EPA and RIDEM is attached to this agreement and made a part hereof.

If EPA considers that the Navy has failed to comply with a term or condition of the approved scope of work of the SEP, or has failed to complete the SEP within one year of the effective date of the settlement agreement, the Navy will be subject to the assessment of stipulated penalties under FFA Section 22 for such failure.

4. The Navy's compliance with the conditions herein is subject to the availability of appropriations for the purposes specified herein. In the event that funding is not available from current appropriations, the Navy will request authorization from Congress for such funding as part of the next available fiscal year budget (FY 1996 or FY 1997). The Navy shall use its best efforts to obtain funding in the FY 1996 budget. Within thirty days after the date that this agreement is signed by all parties, the Navy will provide EPA and RIDEM written notification of the source of funding of this agreement and with documentation for any request for authorization of funds needed to comply with this agreement. The performance of the SEP approved under this agreement shall not result in any deferral or delay of any projects presently scheduled under the NETC Installation Restoration Program and/or Superfund cleanup.
5. Within sixty days after the date this agreement is signed by all parties, the Navy, EPA and RIDEM agree to hold a partnering session. The Navy shall arrange a mutually agreeable time, place, and agenda for the partnering session. A specific item on the agenda will be to reach final agreement on the schedules and workplans for the ecological risk assessments which were previously discussed by the remedial project managers on February 22, 1995 (which show completion of the Phase II Ecological Risk Assessment Report for the McAllister Point Operable Unit by February 15, 1996 and for the Old Fire Fighter Training Area Operable Unit by September 22, 1996). If the parties are unable to reach agreement on such schedule at the partnering session, the dispute shall be subject to the dispute resolution provisions of FFA Section 13.

6. Nothing in this agreement shall be construed as an admission by the Navy of any violation or of any issue of law or fact, nor shall this agreement be used against the Navy as evidence of any violation or as an admission against interest, nor shall it prejudice or impair any right, remedy or defense the Navy may have in future proceedings other than in a proceeding to enforce this agreement.

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U.S. Environmental Protection Agency, Region I

Frank Ciavattieri  
Frank Ciavattieri  
Deputy Director  
Waste Management Division

June 8, 1995  
Date

U.S. Department of the Navy

W.A. Waters  
W.A. Waters  
Captain, CEC, U.S. Navy  
Commanding Officer  
Northern Division  
Naval Facilities Engineering Command

15 June 1995  
Date

Rhode Island Department of Environmental Management

W. S. Angell II (FOR)  
Terrence Gray, P.E.  
Chief  
Division of Site Remediation

22 JUNE 1995  
Date

SUPPLEMENTAL ENVIRONMENTAL PROJECT PROPOSAL  
NETC NEWPORT

1. Description of Project

The Navy will undertake a supplemental environmental project (SEP) which all parties agree is intended to reduce risk to human health and the environment. The project is being done as part of the Settlement Agreement, dated June 8, 1995 (the Settlement Agreement) among the Navy, the U.S Environmental Protection Agency, Region I (EPA), and the Rhode Island Department of Environmental Management (RIDEM) in connection with the settlement of a dispute under the Naval Education and Training Center CERCLA Federal Facility Agreement (FFA), dated March 23, 1992. The following provides the scope of work and implementation schedule for the project. The project will be conducted at the former Derektor Shipyard facilities near Newport and will consist of the removal of approximately 1500 cubic yards of "black beauty" sand blast grit.

Specifically, the removal of the sand blast grit will center around the north and east sides of Building 42 where the largest amount of sand blast grit has been discovered. Removal of the sand blast grit will eliminate the potential for leaching of metals into Coddington Cove and exposure to air-borne contaminants. Currently available analytical results show the surface sand blast grit to be nonhazardous and the subsurface sand blast grit to contain elevated levels of chromium, copper, lead, nickel and zinc. The Navy's SEP will include disposal of sand blast grit at the McAllister Point Landfill site where construction of a landfill cap has begun. Any hazardous sand blast grit will be disposed of off-site in accordance with applicable laws and regulations.

The project will be executed in three phases. The first phase will consist of preparing a limited field sampling plan to identify proposed sampling/test pit locations, reviewing this plan with EPA and RIDEM, and then having the Navy's Remedial Action Contractor (OHM Remediation) conduct the necessary sampling. The second phase will be the submission of the removal action work plan which will provide a conceptual basis of the removal action and will consist of a health and safety plan; sampling and analytical results; a removal action description which will outline the methods of determining vertical and horizontal limits; disposal requirements and disposal alternatives. Once regulatory comments are received on the work plan, a review meeting will be held to discuss any technical matters. The third phase of the project will consist of the execution of the removal action. This work will be performed by

the Navy's Remedial Action Contractor who is currently constructing the cap on the McAllister Point Landfill and will be completed during the capping process in order to save costs on off-site disposal and additional mobilization. Execution of the removal action must occur in August - September 1995 to ensure coordination with the cap construction.

The Navy will ensure that the cost of the project, exclusive of the cost of excavation, transportation and disposal of hazardous sand blast grit, is not less than \$90,000. All costs associated with the analytical sampling, removal action workplan, site restoration, disposal/excavation/transportation of nonhazardous wastes and the project close out report shall be credited toward the costs of the project under the Settlement Agreement. In the event that the cost is less than \$90,000, the Navy will remove additional nonhazardous sand blast grit in the amount of the difference between \$90,000 and the costs of the SEP removal.

## 2. Conception of Project

Derecktor Shipyard was leased from the Navy by the Rhode Island Port Authority and subleased to Robert E. Derecktor of Rhode Island, Inc. Derecktor filed Chapter 11 bankruptcy in January 1992 and abandoned the shipyard in October 1992. When the facility was returned to the Navy, a site inspection showed poor housekeeping and inadequate hazardous material/waste management practices. The Navy began surface cleanup and debris removal while trying to determine the extent of contamination, which led to the discovery of the sandblast grit. Four samples were collected and analyzed in April 1994 to confirm the characteristics of the sand blast grit. Metals in the subsurface sand blast grit have the potential to leach out, migrate towards Coddington Cove and contribute to the elevated levels of metals found in the sediments.

## 3. Itemized Cost

It is estimated that the total cost of the project will be as follows:

Removal Action Work Plan	\$ 10,000
Analytical Sampling Costs (20 samples @ \$1200/sample)	\$ 24,000
Sand Blast Grit Removal - McAllister Point Landfill	\$ 38,000
Excavation - (1000 CY @ \$ 8/CY)	
Disposal - (1000 CY @ \$ 0/CY)	
Transportation - (1000 CY @ \$30/CY)	

Sand Blast Grit Removal - Off-Site	\$119,000
Excavation - ( 500 CY @ \$ 8/CY)	
Disposal - ( 500 CY @ \$150/CY)	
Transportation - ( 500 CY @ \$ 80/CY)	
Site Restoration	\$ 16,500
Fill (1500 CY @ \$16/CY)	
Project Close Out Report	\$ 5,000
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	\$212,500

(The approximate pricing costs are estimates. Actual costs will be based on the volume of material to be shipped, density of the sand blast grit and disposal site approval results.)

#### 4. Quantification of Environmental Benefit

It is estimated that 1500 cubic yards of "black beauty" sand blast grit will be removed and reduce the potential threat of risk to human health and the environment.

#### 5. Implementation Schedule

Kickoff Meeting:	14 Jun 95
Submit Removal Action Workplan:	05 Jul 95
Regulatory Comments/Review Meeting:	25 Jul 95
Construction Begins:	01 Aug 95
Project Close Out Report:	01 Dec 95

Execution of the dates listed above must be met in order for completion of the work to occur in conjunction with the McAllister Point Landfill cap. By signing of the settlement agreement, EPA and RIDEM acknowledge that there will be no formal design submission and the removal action may begin after the comment review meeting but prior to finalization of the removal action workplan.

#### 6. Project Close Report

The Project Close Out Report shall contain the following information: (i) a detailed description of all work performed (ii) itemized costs, documented by copies of purchase orders, invoices and/or receipts. Following receipt of the Project Report, EPA will either (i) accept the report, or (ii) reject the report and notify the Navy, in writing, of deficiencies in the report and any additional actions and/or information required to be taken or supplied by the Navy. In the event the Navy objects to any EPA notification of deficiency or disapproval, the dispute

shall be resolved in accordance with the dispute resolution procedures of the FFA.