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EMAIL REGARDING REGULATORY COMMENTS FOR UPCOMING CONFERENCE CALL TO
DISCUSS FEASIBILITY STUDY FOR SITE 8 NETC NEWPORT RI
4/4/2012
RHODE ISLAND DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

Ropp, Jim

From: Pamela Crump <pamela.crump@DEM.RI.GOV>
Sent: Wednesday, April 04, 2012 4:45 PM
To: Ropp, Jim; Ginny Lombardo; Parker, Stephen; maritza.montegross@navy.mil; Moore, Deborah J CIV NAVFAC MIDLANT, PWD Newport
Subject: NUSC conference call
Categories: Newport

To All –

I am pleased to tell you that RIDEM has reviewed the Navy's responses (12/7/11 and 3/6/12) to our comments and we accept the majority of the Navy's responses. However, we do not concur with several of the responses, and suggest that these be the topics for our conference call tomorrow:

- Comment 7 – remaining exceedances of RIDEM's leachability standard for naphthalene
- Comment 8 – a PRG should be established for TPH
- Comment 16 – State ARARs

During tomorrow morning's staff meeting, I am going to discuss the naphthalene issue and will have a better answer on this for the call. Please see below RIDEM's Evaluation of Responses for these comments. RIDEM hopes that the Navy will agree to address these issues so that the cleanup of this Site can move forward.

RIDEM's Evaluation of the Navy's Responses (12/7/11 and 3/6/12) to RIDEM's Comments (9/19/11) on the Draft Feasibility Study for NUSC Disposal Area (Site 8), NAVSTA Newport, RI

Comment 7 – Page 2-7, Section 2.2.2, Derivation of Preliminary Remediation Goals, Human Health PRGs; Table 2-4.

RIDEM's leachability criteria are ARARs for this Site and must be included in this table and throughout the FS.

Navy's Response:

Naphthalene:

The three highest concentrations of naphthalene in soil (maximum of 220 mg/kg) are co-located with benzo(a)pyrene in locations SB110 and TP15. Upon removal of those two locations as described above, the representative site concentration (95% UCL) of the residual naphthalene in surface and subsurface soil across the site would be 0.855 mg/kg which slightly exceeds RIDEM's leachability criterion for naphthalene of 0.8 mg/kg. Removal of the next highest naphthalene concentrations (location SS127/SB127) would reduce the 95% UCL for surface and subsurface soil to 0.515 mg/kg.

RIDEM's Evaluation of Response:

RIDEM does not agree that the 95% UCL can be used for comparison to the leachability standards; therefore, the Navy may be required to address the remaining locations where the leachability standard

was exceeded, especially at TP-08 (20 mg/kg). However, the fact that naphthalene has not been detected in groundwater must be noted.

Comment 8 – Page 2-7, Section 2.2.2, Derivation of Preliminary Remediation Goals, Human Health PRGs; 2nd paragraph.

Please add any exceedances to RIDEM’s Criteria as PRGs, including TPH.

Navy’s Response:

Regarding TPH, petroleum is not a CERCLA contaminant. CERCLA cleanups address “hazardous substances, pollutants or contaminants,” which have definitions that explicitly exclude petroleum [CERCLA sec 101(14) & 101(3)]. RIDEM Remediation Regulation DEC may be CERCLA ARARs only if they pertain to CERCLA “hazardous substances, pollutants or contaminants” being addressed by the CERCLA cleanup. [CERCLA sec 121(d)]. Other state contaminants, such as TPH, would be addressed outside CERCLA.

In general, if TPH is “co-located” with a CERCLA release that requires remedial action, the Navy may choose to address the TPH contamination concurrent with the CERCLA action. However, the action to address the TPH would follow state petroleum remediation requirements, and would be accomplished outside the CERCLA process. If TPH is “co-mingled” with a CERCLA release that requires remedial action, the Navy will address the TPH contamination and the CERCLA contaminants together in a single cleanup. However, risk from the petroleum will be assessed on its individual hydrocarbon constituents (i.e. PAHs). The Navy would include state petroleum remediation criteria as PRGs for the implemented action. They would not be ARARs for the CERCLA cleanup.

At Site 8, the soil and sediment sample locations which exceeded RIDEM’s TPH criteria are co-located with areas to be addressed as part of the CERCLA action, except for one sample location (SD-B179-01 at 640 J mg/kg) which exceeded the residential criterion (500 mg/kg) but not the industrial criterion (2,500 mg/kg). The current and planned future use of the site is industrial; therefore, that location will be addressed through the residential LUC planned for that area.

RIDEM’s Evaluation of Response:

RIDEM recently issued a formal dispute letter regarding several issues with the Sampling and Analysis Plan for Tank Farm 1. In this letter, RIDEM states that TPH should be addressed as an ARAR according to the January 12, 2012 Dispute Agreement. RIDEM does not agree with the Navy’s definition of “co-located” above. Please indicate where this is stated in CERCLA guidance. If TPH was detected in the same sample as other contaminants, then it is commingled.

The following sample locations exceed RIDEM’s industrial criterion of 2,500 mg/kg:

TP-15A	2-3 ft	50,000 mg/kg
TP-15A	5-6 ft	63,000 mg/kg
SB-110	8-10 ft	12,000 mg/kg
SB-121	4-6 ft	2,800 mg/kg

Please indicate if any of these exceedances have been previously addressed. If not, these exceedances of TPH must be addressed in this FS. Therefore, as requested, please develop a PRG for TPH in this FS.

Comment 16 – Table 2-3, Potential Action-Specific ARARs and TBCs, State Regulatory Requirements; whole table.

The following requirements are missing from the State Regulatory Requirements section of this table:

- a) Environmental Land Use Restrictions, *RI Rules and Regulations for the Investigation and Remediation of Hazardous Material Releases*, Section 8.09 – Institutional Controls
- b) Standards for Owners and Operators of Hazardous Waste TSD Facilities, *RI Rules and Regulations for Hazardous Waste Management*, Sections 7.0-10.0
- c) Rhode Island Oil Pollution Control Regulations

Navy's Response:

- a) ELURs – Disagree. ELURs will be handled through LUCs and the LUC RD.
- b) Hazardous Waste TSD Facilities – Disagree. These are for off-site activities and are applicable in any case. They are excluded from the ARAR analysis.
- c) Oil Pollution Control Regulations – Disagree. Petroleum contamination is not addressed under CERCLA.

RIDEM's Evaluation of Response:

- a) ELURs – The Navy has stated that ELURs cannot be placed on property owned by the Navy. However, if this property is transferred for public/private use, then an ELUR would be required for this Site. Please retain this as an ARAR as it may be pertinent to future circumstances for this Site.
- b) Please note that this regulation has been recently revised. The applicable section is now Section 8.0 – Operational Requirements for Treatment, Storage and Disposal Facilities. Since releases of hazardous waste have occurred at this Site, Section 8.0 of this regulation is applicable. This section includes all requirements for hazardous waste management, including groundwater monitoring requirements. Please retain this as an ARAR in this FS.
- c) Oil Pollution Control Regulations – These regulations are applicable to any petroleum releases to the waters of the State, including groundwater. Once commingled, petroleum must be dealt with during the CERCLA cleanup process. Please retain this as an ARAR in this FS.

If you have any questions regarding this email, please feel free to contact me at anytime.

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