



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, REGION I  
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April 27, 2010

Winoma Johnson, P.E.  
NAVFAC MIDLANT (Code OPNEEV)  
Environmental Restoration  
Building Z-144, Room 109  
9742 Maryland Avenue  
Norfolk, VA 23511-3095

Re: *Comments to:*  
Draft Proposed Plan for Derecktor Shipyard Offshore

Dear Ms. Johnson:

Thank you for the opportunity to review the Draft *Proposed Plan, Marine Portions of the Former Robert E. Derecktor Shipyard, Naval Station Newport – Newport, Rhode Island*, dated April 2010. This document presents the Navy's preferred alternative for remediating contaminated sediment in the marine environment adjacent to Site 19, the former Robert E. Derecktor Shipyard. Detailed comments are provided in Attachment A. In the interest of efficiency, EPA has provided an edited version in Attachment B.

Overall, EPA objects to the proposed remedy and believes that the Navy's claims about decreasing trends in contamination are largely unfounded. It is disappointing that the Navy elected to issue a draft Proposed Plan without discussing the proposed remedy with the site team. The proposed remedy for the Offshore area is not protective of human health and the environment and is therefore not supported by EPA. Numerous outstanding issues remain unresolved. These issues include: 1) the enforceability and effectiveness of the fishing ban; 2) data to demonstrate a clear and meaningful trend of decreasing contaminant mass, concentration, or toxicity in sediments over time; 3) the time required for sediments to reach PRGs via natural processes; 4) historical information concerning the frequency and severity of disruptive events and human-caused disturbances; 5) data that directly demonstrate the occurrence of a particular attenuating process at the site and its ability to degrade the contaminants of concern; 6) sediment bed stability; and 7) consistency with EPA regulations and guidance. Unless the Navy changes the proposed remedy to one that is mutually agreed upon by EPA, EPA intends to invoke formal dispute resolution pursuant to Section XIII of the Federal Facilities Agreement.

Alternative 2 would not be protective of human health and the environment because the second RAO may not be achieved for a long time, if at all. Alternative 2 does not include any action to minimize resuspension of contaminated sediment and relies on an uncertain sedimentation mechanism, making its protectiveness highly questionable. No modeling

has been referenced and no discussion included regarding the time until the PRGs are expected to be achieved.

EPA believes that Alternatives 3 and 4 would provide protection in the short-term, whereas the Navy has provided no information to support a determination that Alternative 2 provides any short-term protectiveness. Alternatives 3 and 4 would enhance the quality of the severely degraded sediment environment by taking immediate action to remove contaminated sediment, rather than leave contamination in place that would continue to pose a CERCLA risk. Minimal impact to the surrounding sediment environment would occur if Alternatives 3 and 4 are properly implemented. They would also be more protective in the long-term because once the contaminated sediment is removed from the environment no CERCLA risk would be present and the marine benthic community would be able to quickly recolonize the remediated areas. Also, the effectiveness of Alternatives 3 and 4 is certain because of the removal of contaminated sediment. There is significant uncertainty regarding the effectiveness of Alternative 2, since the Navy has not demonstrated that natural recovery could actually occur within an acceptable period. The PRGs would not be achieved by Alternative 2. EPA expects the draft final Proposed Plan to be significantly revised to provide a more realistic assessment of the alternatives in light of the NCP criteria.

The statement that the sampling to date demonstrates that natural contaminant reduction is occurring is premature and must be removed from the discussion. The limited sampling conducted at the Site to date does not establish a trend that can be used to document the effectiveness of natural contaminant reduction. Moreover, there has been no modeling to demonstrate when each of the alternatives would meet the remedial goals.

The format for the Proposed Plan complies with the format presented in EPA's guidance and the content of the Proposed Plan is also generally compliant with that guidance and the National Contingency Plan (NCP) except that it does not include a summary of formal comments received from the support agencies [300.430(f)(2)(iii)]. Also, according to the NCP [300.515(e)], the Proposed Plan shall include a statement of agreement among the lead and support agencies or include a statement explaining the concerns of the support agencies with the Proposed Plan.

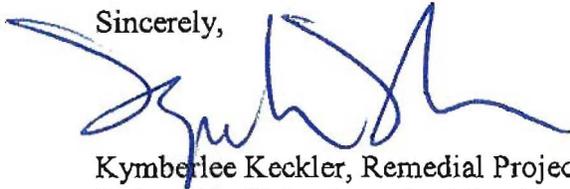
Generally, EPA recommends that Proposed Plans are more simplified and accessible to the lay reader and the general public. There are three major ways to accomplish that: 1) vastly reduce the use of acronyms and 2) avoid technical terminology and instead use simpler words. For example, "remedial" and "remedy" could be replaced with "cleanup" and "cleanup plan," respectively. EPA recommends using "the Base" instead of "NAVSTA" and "Superfund" instead of "CERCLA." Other acronyms, including, but not limited to, ERA, LUCs, PRGs, COPCs, COCs, FS, HHRA, and RA should simply be spelled out throughout the document.

The Proposed Plan lists the PRG for TBT at 228 ug/kg. It should be recognized that, as agreed to (see EPA email of July 30, 2009), this is a default PRG and that if concentrations greater than 228 ug/kg are detected in the PDI, a new PRG will need to be established.

The Proposed Plan does not adequately address asbestos. As noted in EPA's December 1, 2009 letter, the nature of the asbestos contamination in sediment is not sufficiently understood. Based on the detected concentrations (visual coverage of > or < 1%), a determination can be made as to the need for risk assessment for asbestos and/or an enhanced effort to define the limits of the asbestos problem in order to establish an institutional controls boundary. The Proposed Plan should accurately reflect this.

I look forward to working with you and the Rhode Island Department of Environmental Management toward the cleanup of the Derecktor Shipyard. Please contact me at (617) 918-1385 to arrange a meeting to discuss our next steps.

Sincerely,



Kimberlee Keckler, Remedial Project Manager  
Federal Facilities Superfund Section

Attachment

cc: Paul Kulpa, RIDEM, Providence, RI  
Cornelia Mueller, NETC, Newport, RI  
Bryan Olson, USEPA, Boston, MA  
David Peterson, USEPA, Boston, MA  
Chau Vu, USEPA, Boston, MA  
Bart Hoskins, USEPA, Boston, MA  
Ken Finkelstein, NOAA, Boston, MA  
Todd Finlayson, Gannet Fleming, Orono, ME  
Steven Parker, Tetra Tech-NUS, Wilmington, MA

## ATTACHMENT A

<u>Page</u>	<u>Comment</u>
p. 1	<p>In the first box, please change the selected remedy to an alternative that meets NCP criteria. As stated earlier, EPA does not believe that Alternative 2 meets the Protectiveness or ARARs criteria and therefore it cannot be the selected remedy.</p>
p. 2	<p>After the bullets in the first column, please include this solicitation for specific public comments stating the following: “The Navy is also seeking public comment on EPA’s finding under the Toxic Substances Control Act (TSCA) that the risk-based PCB cleanup level used for the remedy will not pose an unreasonable risk of injury to health or the environment. In addition, the Navy requests public comment on its finding that the cleanup represents the least environmentally damaging practical alternative regarding potential impacts to wetlands. Page 2 contains more detail regarding these items.”</p> <p>Alternative 2 does not meet either TSCA risk-based standards nor federal wetlands/aquatic habitat protection standards so the selected alternative must be changed to an alternative that meets both of these ARARs.</p>
p. 3	<p>In the text that discusses the berthed inactive warships, discuss whether the release of metals from the bottom paint on the ships is contributing to the contamination of the Site.</p> <p>In the text that discusses asbestos under the piers, discuss in more detail the asbestos abatement that has been conducted. Monitoring is not an abatement activity. Abatement needs to consist of either removal or stabilization so that there is no risk of release into the environment.</p>
p. 4, Metals	<p>In the second paragraph, please modify the parenthetical phrase to say “... samples <i>were</i> analyzed ....”</p> <p>In the third paragraph, please correct the first sentence to read “... reference levels though at only a few stations ....”</p>
p. 4	<p>Under How much and what type of contamination is present?, it would be helpful to specify how many samples of each medium were collected, so that the description of a certain number of samples (<i>e.g.</i>, exceeding EPA criteria, exceeding reference, <i>etc.</i>) has context relative to the overall number of samples collected.</p> <p>Increase the size of the “Investigations” box so that the last sentence is not truncated.</p> <p>In the final paragraph, the text states: “Concentrations of organic contaminants in muscle tissue of both fish and lobsters from the study area</p>

were in the same range as those from the reference stations.” This statement is in the PCB section. Please clarify whether it refers to all organic chemicals or just PCBs,

p. 5

Under Pesticides, at the top of the page, the text states: “Elutriate samples showed the presence of small amounts of p,p’-DDE.” Please define whether “small amounts” are relative to standards or a reference.

The text on page 4 states that sediment, elutriate, and biota samples were analyzed for metals, PCBs, pesticides, PAHs, and butyltins. In the subsequent descriptions for each chemical group, not all media are discussed. Specifically, the Pesticides section does not provide biota tissue data and the PAH and butyltins sections do not provide elutriate data. Please add this information.

p. 6

The final paragraph states: “Water-borne asbestos is not thought to have health effects except in drinking water, and only if it is present at concentrations (millions of fibers per liter).” Please clarify if the intent is that health effects are only expected if the concentration is a million fibers per liter or greater.

Discuss the risk of exposure to asbestos in sediment if sediment under the pier is dredged or otherwise brought to the surface where it could become dried and then airborne.

p. 6, left box, bullet 3

Arsenic is identified as a COC in drinking water rather than in sediment. Based on the FS, Appendix B, page 31, arsenic in water caused unacceptable human health risks but no arsenic PRG was developed. Monitoring of organic arsenic was the only recommendation. The text for this bullet is incorrect and needs to be revised.

p. 7

Under Risk Analysis for ecological receptors, please clarify how risk was estimated for each receptor group. For example, how was the daily uptake for avian aquatic predators calculated?

p. 8

Add a third RAO: “Prevent exposure to sediment containing asbestos that may pose a human health risk if removed and allowed to become airborne.”

p. 8, left box

In the last paragraph under RAOs, please clarify that these PRGs for human health shellfish consumption are sediment PRGs, not shellfish PRGs.

p. 8, right box,  
Bullets 2 & 5

In order to select this remedy, the administrative record must already document that decreasing trends exist. Likewise, modeling should have been completed to demonstrate when the PRGs would be established. Such data do not exist for this site to date.

p. 8, right box,  
bullet 3

Please revise sentence to “...for the duration of the remediation period would be implemented Site-wide.”

p. 8, Alternative 2     It is not apparent that the listed remedial components would be sufficient to achieve the second RAO identified on this page. The first bullet on page 6 refers to the amount of ship traffic in the impacted area as a reason that the amount of subsistence fishing assumed might be overestimated. Ship traffic is likely to be a significant impediment to natural recovery by resuspending contaminated sediment. Ongoing exposure of environmental receptors to the resuspended contaminated sediment as well as to the contaminated sediment redeposited at the top of the sediment layer would prevent or significantly delay achievement of the environmental RAO. The result would be an alternative that would not be protective for a long time. Since contaminated sediment is presently in the surface sediments, even though the Derecktor Shipyard ceased operations in 1992, the Navy has not sufficiently met EPA guidance standards for a protective Monitored Natural Recovery alternative.

In the fourth bullet describing the IC component of Alternative 2, add ICs for managing any sediment removed from under the piers that may be contaminated with asbestos.

p. 9, Alternative 3     In the second bullet describing the IC component of Alternative 3, add ICs for managing any sediment removed from under the piers that may be contaminated with asbestos.

In the fifth bullet, correct the text to read: "... to the bay or to ..."

p. 9, Alternative 4     In the second bullet describing the IC component of Alternative 4, add ICs for any inaccessible sediments above CERCLA risk levels and for managing any sediment removed from under the piers in the future that may be contaminated with asbestos.

p. 9, Evaluation of Alternatives     a) The discussion in the second paragraph is not correct. It is not apparent that Alternative 2 would be protective of the environment because the second RAO may not be achieved for a long time, if at all. Alternative 2 does not include any action to minimize resuspension of contaminated sediment and relies on an uncertain sedimentation mechanism, making its protectiveness highly questionable. No modeling has been referenced and no discussion included regarding the time until the PRGs are expected to be achieved.

b) EPA disagrees with the discussion in the third paragraph. Alternatives 3 and 4 would provide much more protection in the short-term than Alternative 2 because they would enhance the quality of the severely degraded sediment environment, not damage it. Minimal impact to the surrounding sediment environment would occur if Alternatives 3 and 4 are properly implemented. They would also be more protective in the long-term because contaminated sediment would be removed from the environment. Also, the effectiveness of Alternatives 3 and 4 is certain because of the removal of contaminated sediment. There is significant uncertainty regarding the effectiveness of Alternative 2. It is not at all clear that the PRGs would be achieved by

Alternative 2. Revise the evaluation of the alternatives to provide a more realistic assessment of them.

p. 10, Preferred  
Alternative

a) EPA does not agree with the discussion in the first paragraph that Alternative 2 is protective of the environment and that it achieves the goals established for the Site as discussed in other comments on the Proposed Plan. Alternative 2 does not meet the ARARs criterion, in particular it does not address risk-based standards identified at TBC, does not meet TSCA-risk based standards for protecting human health and the environment (*i.e.*, will not receive EPA approval as required under TSCA), and is not the “least environmentally damaging practicable alternative” under federal wetland/aquatic habitat protection standards.

b) The suggestion in the second paragraph that sampling to date demonstrates that natural contaminant reduction is occurring is premature and must be removed from the discussion. The limited sampling conducted at the Site to date does not establish a trend that can be used to document the effectiveness of natural contaminant reduction.

c) In the first bullet, please correct the last sentence by deleting the redundant “have been” phrase.

Once a preferred alternative that meets NCP criteria is selected, the following text needs to be added at the end of the section:

Public Notice of Determination that the PCB Cleanup Level is Protective of Human Health

EPA has made a finding under the Toxic Substances Control Act (TSCA) PCB Regulations at 40 CFR Part 761, that the removal of PCBs in contaminated sediment above the cleanup level of 1,060 µg/kg established for PCBs at this site, will not pose an unreasonable risk of injury to health or the environment.

Public Notice of Unavoidable Impacts to Wetlands and Aquatic Resources

EPA is seeking public comment on the following:

In accordance with federal Executive Order 11990, entitled “Protection of Wetlands,” Navy has determined that there will be unavoidable adverse impacts to approximately xx acres of wetlands/aquatic resources as the result of excavating (and/or capping if Alternative 3 is selected) contaminated sediment from the Site. The Navy has evaluated the requirements of the applicable regulations, including Section 404 of the Clean Water Act, and identified the proposed actions as the least environmentally damaging practicable alternative to protect federally regulated wetland and aquatic resources from exposure to contaminated sediments. This finding is based on the permanent removal of contaminated sediments and the expected natural

recolonization of the remediated areas. The wetland area that will be remediated and restored at the Site is shown in Figure 3.

Table 1

Make changes to the **COMPARISON OF REMEDIAL ALTERNATIVES** table based on comments made herein.