

United States Environmental Protection Agency
Region I,

The State of Connecticut,

and the

United States Department of the Navy

IN THE MATTER OF:

The U.S. Department of the Navy

Naval Submarine Base New London,
Connecticut

FEDERAL FACILITY AGREEMENT UNDER CERCLA § 120

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Based on the information available to the Parties on the Effective Date of this Federal Facility Agreement (Agreement), and without trial or adjudication of any issues of fact or law, the Parties agree as follows:

I. PURPOSE

1.1 The general purposes of this Agreement are to:

- (a) Ensure that the environmental impacts associated with the past and present activities at the Site are thoroughly investigated and to ensure that the appropriate Remedial Action is taken as necessary to protect human health and the environment;
- (b) Establish a procedural framework and Timetable for developing, implementing and monitoring appropriate Response Actions at the Site in accordance with the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended by the Superfund Amendments and Reauthorization Act of 1986 (SARA), Pub. L 99-499 (hereinafter jointly referred to as CERCLA/SARA or CERCLA), 42 U.S.C. § 9620(e)(1), CERCLA guidance and policy, the National Contingency Plan (NCP), 40 CFR 300, the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. § 6901 et seq., as amended by the Hazardous and Solid Waste Amendments of 1984 (HSWA), (hereinafter jointly referred to as RCRA/HSWA or RCRA), RCRA guidance and policy, Executive Order 12580 and applicable State law; and
- (c) Facilitate cooperation, exchange of information and participation of the Parties in such actions.

1.2 Specifically, the purposes of this Agreement are to:

- (a) Identify Interim Remedial Actions, which are appropriate at the Site prior to the implementation of a final CERCLA Response Action(s). Any Party may propose Interim Remedial Actions to the other Parties and should do so as soon as the need for such Interim Action is identified. This process is designed to promote cooperation among the Parties in identifying Interim Remedial Actions prior to the selection of the final Remedial Action. The Parties do not intend that the identification of or proposal of any Interim Remedial Action preclude the timely initiation of Removal Actions by the Navy necessary to address immediate threats to public health, welfare, and the environment pursuant to Section XII (Removal Actions).

- (b) Establish requirements for the identification of Study Areas (SA), Study Area Screening Evaluations (SASE) and Remedial Investigation(s) (RI) to assess the nature and extent of the threat to the public health, welfare and the environment caused by the release or threatened release of Hazardous Substances, pollutants or contaminants at or from the Site and to establish requirements for the performance of Feasibility Studies (FS) for the Site to identify, evaluate and select alternatives for the appropriate Remedial Action(s) at the Site to prevent, mitigate or abate the release or threatened release of Hazardous Substances, pollutants or contaminants at the Site in accordance with CERCLA, applicable State law and this Agreement;
- (c) Identify the nature, objective, and Schedule of Response Actions to be taken at the Site and to ensure that Response Actions at the Site shall attain that degree of cleanup of Hazardous Substances, pollutants or contaminants mandated by CERCLA, applicable Records of Decision, RCRA, applicable State law and this Agreement;
- (d) Implement the selected Remedial Action(s) in accordance with CERCLA, applicable Records of Decision, applicable State law and this Agreement; and meet the requirements of CERCLA § 120(e)(2), 42 U.S.C. § 9620(e)(2);
- (e) Ensure compliance through this Agreement, with RCRA and other Federal and State hazardous waste laws and regulations for matters covered herein;
- (f) Coordinate Response Actions at the Site with the mission and support activities at the Naval Submarine Base New London;
- (g) Expedite the cleanup process to the extent consistent to ensure the protection of human health and the environment;
- (h) Provide for the Operation and Maintenance (O&M) of any Remedial Action selected and implemented pursuant to this Agreement;
- (i) Provide for the appropriate involvement by the State in the initiation, development, selection and enforcement of Remedial Actions to be undertaken at the Naval Submarine Base New London (NSBNL), including the review of and comment on all applicable data as it becomes available; consultation regarding studies and reports; the development of action plans and other deliverables; and identification and integration of State ARARs for

the Remedial Action process; and

- (j) Identify Removal Actions which are appropriate for the Site and provide timely notice to the other Parties of such proposed actions.

II. PARTIES AND SCOPE OF AGREEMENT

- 2.1 The Parties to this Agreement are the EPA, the Navy, and the State of Connecticut. The terms of the Agreement shall apply to and be binding upon the EPA, Navy, and the State of Connecticut, their respective officers, successors in office, agents and employees.
- 2.2 Each Party shall be responsible for ensuring that its contractors comply with the terms and conditions of this Agreement. Failure of the Navy to provide proper direction to its contractors and any noncompliance with this Agreement by a contractor resulting from the Navy's failure to do so shall not be considered a Force Majeure event.
- 2.3 Each Party, upon selection of a contractor and when practicable in advance of the contract performance, shall upon request, notify the other Parties of the identity and of the assigned tasks of said contractor.
- 2.4 This Agreement shall not be construed as an agreement to indemnify any person. The Navy shall provide notice of the existence of this Agreement, or a copy of this Agreement, to appropriate members, employees, agents, lessees and Response Action contractors. Pursuant to Section XXXVII (Transfer of Real Property), the Navy agrees to provide notice of this Agreement to any subsequent owners and operators of any portion of Naval Submarine Base New London in accordance with CERCLA § 120(h), and shall notify EPA and the State of any such change of ownership or control at least sixty (60) days prior to such transfer. Transfer of property affected by this Section shall not relieve the Navy of its applicable obligations under this Agreement.
- 2.5 The scope of this Agreement extends to the entire Site, as defined at Section 3.1 (cc) herein. The Site cannot be removed from the NPL unless it is determined, in accordance with CERCLA, the NCP, and this Agreement, that the Navy has implemented all appropriate Response Actions and the Site no longer poses a threat to human health or the environment. Remedial Actions at the Site shall occur in discrete locations called Study Areas (SA), Areas of Contamination (AOC), or Operable Units (OU) identified at the Site pursuant to this Agreement. For each Study Area, Area of Contamination, or Operable Unit the Navy shall perform all

Work identified in Sections 2.6, 2.7 and 2.8 below in accordance with the requirements of this Agreement.

- 2.6 The Navy shall develop, implement and report upon Study Area Screening Evaluations (SASE) for each Study Area and Remedial Investigations (RI) for each AOC or OU in accordance with this Agreement, the NCP and applicable EPA regulations, policy and guidance, and applicable state law. All SASE and RI documents, shall be subject to the review and comment procedures described in Section VII (Consultation with EPA and the State). All SASE and RI activities at the Site shall be conducted in accordance with the requirements and Deadlines set forth in Section XIV (Deadlines and Schedules) and Appendix IV (Deadlines and Schedules) of this Agreement. All SASE and RI activities shall be designed to meet the purposes set forth in Section I (Purpose) of this Agreement.
- 2.7 The Navy shall develop, implement and report upon Feasibility Studies (FS) for each AOC or OU at the Site in accordance with the requirements of this Agreement, the NCP and applicable EPA regulations, policy and guidance, and applicable state law. All Feasibility Study documents shall be subject to the review and comment procedures described in Section VII (Consultation with EPA and the State) of this Agreement. The Navy shall conduct each FS in accordance with the requirements and Timetable set forth in Section XIV (Deadlines and Schedules) and Appendix IV (Deadlines and Schedules) of this Agreement. Each FS shall meet the purposes set forth in Section I (Purpose) of this Agreement.
- 2.8 The Navy shall perform Remedial Design, Remedial Action (RD/RA), and Operation and Maintenance activities at the Site in accordance with CERCLA, Section XVII (Records of Decision and Plans for Remedial Action) of this Agreement, the NCP, and applicable State laws.
- 2.9 Any Remedial Action in progress on the Effective Date of this Agreement shall be subject to the obligations and procedures of this Agreement.

III. DEFINITIONS

- 3.1 The terms used in this Agreement shall have the same definitions as the terms defined in CERCLA, RCRA, and the National Contingency Plan (NCP). The following terms used in this Agreement are defined as follows:
 - (a) "Additional Work" shall mean all activities required by Sections 7.9 and 32.2 herein.

- (b) "Agreement" shall refer to this document and shall include all Appendices to this Agreement.
- (c) "Applicable state law" shall mean all laws determined to be applicable under this Agreement. The term shall include but not be limited to all laws determined to be ARARs. It is recognized that in some instances where this phrase is used, there may be no applicable state laws; the Connecticut Department of Environmental Protection shall be consulted by the other Parties, in accordance with CERCLA Section 121(d)(2)(A)(ii), when making determinations regarding applicable state laws.
- (d) "ARARs" shall mean Federal and State Applicable or Relevant and Appropriate Requirements, standards, criteria, or limitations, identified pursuant to CERCLA § 121(d)(2).
- (e) "Area of Contamination" or "AOC" shall mean (1) any of the areas listed or described in Section 5.6 and Appendix III of this Agreement as an Area of Contamination; including any area or any group of areas, if applicable, to or under which a release of Hazardous Substances has come to be located, from any of the above listed areas and (2) any area or location or group of areas, if applicable, where a Hazardous Substance has been deposited, stored, disposed of, or placed, or otherwise come to be located within the Site boundaries and added to this Agreement pursuant to Section XXXI (Identification of Study Areas) of this Agreement.
- (f) "CERCLA" shall mean the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. § 9601 et seq. as amended by the Superfund Amendments and Reauthorization Act of 1986, Public Law 99-499 (SARA) and any subsequent amendments.
- (g) "Day" or "Days" means calendar day(s), unless business day(s) are specified. Any submittal or written statement of dispute which under the terms of this Agreement would be due on Saturday, Sunday, or a holiday shall be due on the next occurring business day.
- (h) "Deadline(s)" shall be the time limitation applicable to issuance by the Navy of all draft primary documents up to and including all RODs for which a date has been established pursuant to the terms of this Agreement.
- (i) "EPA" shall mean the United States Environmental Protection Agency and its employees; and only for

purposes of access to the Site, its agents and authorized representatives.

- (j) "Feasibility Study" or "FS" shall mean a study conducted pursuant to CERCLA and the NCP which fully develops, screens and evaluates in detail Remedial Action alternatives to prevent, mitigate, or abate the migration or the release or threatened release of Hazardous Substances, pollutants or contaminants at or from the Site, including at an Area of Contamination or any aggregate or combination of Areas of Contamination or OU, which satisfies the same requirements.
- (k) "Hazardous Substance(s)" shall mean all those substances which are included under CERCLA § 101(14), 42 U.S.C. § 9601(14), which include any hazardous waste having the characteristics identified under or listed pursuant to Section 3001 of the Solid Waste Disposal Act, 42 U.S.C. § 6921; and PCBs pursuant to Conn. Gen. Stat. § 22a-115.
- (l) "Interim Remedial Action" or "IRA" shall mean all discrete Remedial Actions implemented prior to a final Remedial Action which are taken to prevent or minimize the release of Hazardous Substances, pollutants, or contaminants so that it does not migrate or endanger human health or the environment.
- (m) "National Contingency Plan" or "NCP" shall mean the National Oil and Hazardous Substances Pollution Contingency Plan, 40 C.F.R. Part 300, and any subsequent amendments, promulgated pursuant to CERCLA.
- (n) "Natural Resource Trustee(s)" and "Federal or State Natural Resource Trustees" shall have the same meaning and authority as provided in CERCLA and the NCP.
- (o) "Naval Submarine Base New London" or "NSBNL" shall mean the real property located on the east bank of the Thames River in the Towns of Groton and Ledyard, Connecticut, known as the Naval Submarine Base New London and the Nautilus Memorial consisting of approximately 568 acres and, solely for the purposes of this Agreement, NSBNL shall include the Navy family housing commonly known as Polaris Park, Nautilus Park, Trident Park, Conning Towers and Dolphin Gardens, consisting of approximately 534 acres and located in said Towns. For purposes of this Agreement, the terms "Naval Submarine Base New London", and "NSBNL" shall include such real property even if later transferred by the United States or an agency or department thereof. NSBNL is shown on the maps in Appendix II.

- (p) "Navy" shall mean the United States Department of the Navy its officers and employees.
- (q) "Operable Unit" or "OU" shall mean a discrete action which comprises an incremental step toward comprehensively addressing Site problems. Each Operable Unit is a discrete portion of a remedial response that manages migration, or eliminates or mitigates a release, threat of release, or pathway of exposure. Operable Units may address specific geographical portions of the Site, specific Site problems, or initial phases of an action or may consist of any set of actions performed over time that are concurrent but located in different parts of the Site.
- (r) "Operation and Maintenance" or "O&M" shall mean the portion of a Remedial Action required to maintain its effectiveness.
- (s) "Parties" shall mean the EPA, the Navy and the State of Connecticut.
- (t) "RCRA" shall mean the Resource Conservation and Recovery Act, 42 U.S.C. § 6901 et. seq., as amended by the Hazardous and Solid Waste Amendments of 1984, Public Law 98-616 and any subsequent amendments.
- (u) "Record of Decision" or "ROD" shall mean the document that describes the Remedial Action alternative(s) selected to be implemented at one or more Operable Units or Areas of Contamination and the basis for the selection. The ROD shall be based on information and technical analysis generated during the RI/FS and consideration of public comments and community concerns.
- (v) "Remedial Investigation" or "RI" means that investigation conducted pursuant to CERCLA, the SOW and the NCP. The RI serves as a mechanism for collecting data for Site and waste characterization and conducting treatability studies as necessary to evaluate performance and cost of the treatment technologies. The data gathered during the RI will also be used to conduct a baseline risk assessment, including characterization of risk of harm to the public health, welfare and environment, to perform a feasibility study, evaluation of the natural resources damaged by the releases or threatened releases of Hazardous Substances, and to support the design of a selected remedy.

- (w) "Remedy" or "Remedial Action" or "RA" shall have the same meaning as provided in CERCLA § 101(24), 42 U.S.C. § 9601(24), and the NCP, and may consist of one or more operable Units.
- (x) "Response Action(s)" shall mean all Removal and CERCLA Remedial Actions at the Site.
- (y) "Scope of Work" or "SOW" shall mean the initial Primary Document which outlines and briefly describes the RI/FS and RD/RA activities at the Site. Separate Scope of Work documents will be produced, pursuant to the terms of this Agreement, for the RI/FS and RD/RA phases of the clean-up. The Scope of Work document for both the RI/FS and RD/RA phases will be of the same level of effort and detail as occurred in the document dated December 1990, entitled "Scope of Work for the Remedial Investigation/Feasibility Study" for Loring Air Force Base, Maine, prepared by the Department of Energy under Contract No. DE-AC05-84OR21400 for the Department of the Air Force. The Scope of Work for the RD/RA phase of the clean-up will include descriptions of the topics listed in Appendix I to this Agreement. The Federal Facility Agreement, not the Scope of Work documents, will govern the determination and enforceability of any timetable, schedule or deadline. Any timetables, schedule or deadline listed in the Scope of Work documents will be for informational purposes only.
- (z) "Schedule(s)" shall mean the dates or time periods established for the completion of all post-ROD draft final primary documents established pursuant to this Agreement.
- (aa) "Significant New Information" shall mean information that is of material assistance in protecting public health, welfare or the environment, evaluating impacts on public health, welfare or the environment, or evaluating the selection of Remedial Action alternatives which become known after a document was finalized.
- (bb) "Significant New Site Conditions" shall mean those conditions of geology, hydrology or contamination that were not known at the time a document was finalized.
- (cc) "Site" shall mean the land encompassed by the existing real estate boundaries at NSBNL and any area off NSBNL to or under which a release of Hazardous Substances, pollutants, or contaminants has migrated from a source on or at NSBNL, and any area off NSBNL to or under

which there is a substantial threat of a release of Hazardous Substances, pollutants, or contaminants from a source on or at NSBNL.

- (dd) "Solid Waste Management Units" (SWMUs) shall mean any discernible unit at which solid wastes have been placed at any time, irrespective of whether the unit was intended for the management of solid or hazardous waste. Such units include any area at a facility at which solid wastes have been routinely and systematically released.
- (ee) "State" shall mean the State of Connecticut and its employees; and, for access purposes only, its agents and authorized representatives.
- (ff) "Study Area" or "SA" shall mean an area or areas within NSBNL, identified pursuant to this Agreement as an area of potential contamination. For purposes of this Agreement, a Study Area shall be considered part of a Remedial Investigation.
- (gg) "Timetable(s)" shall be the collective terms for all Deadlines and Schedules established pursuant to this Agreement.
- (hh) "Work" shall mean activities or obligations required by this Agreement including but not limited to SASE, RI/FS, RD/RA, Operation and Maintenance (O&M) and any other activities required to be undertaken pursuant to Section VI (Work to be Performed).

IV. JURISDICTION

4.1 Each party is entering into this Agreement pursuant to the following authorities:

- (a) The EPA enters into those portions of this Agreement that relate to Study Areas and RI/FS pursuant to CERCLA § 120(e)(1), RCRA and Executive Order 12580;
- (b) EPA enters into those portions of this Agreement that relate to Areas of Contamination, Interim Remedial Actions, Operable Units, and all final Remedial Actions pursuant to CERCLA § 120(e)(2), RCRA and Executive Order 12580;
- (c) The Navy enters into those portions of this Agreement that relate to the Study Areas and RI/FS, pursuant to CERCLA §§ 120(e)(1), RCRA §§ 6001, 3008(h) and 3004(u), Executive Order 12580, and the Defense Environmental Restoration Program (DERP), 10 U.S.C. § 2701 et seq;

- (d) The Navy enters into those portions of the Agreement that relate to Interim Remedial Actions and final Remedial Actions pursuant to CERCLA § 120 (e) (2), RCRA §§ 6001, 3004(u) and 3008(h), Executive Order 12580 and the DERP; and,
- (e) The State enters into this Agreement pursuant to CERCLA §§ 120(f) and 121(f), 42 U.S.C. 9620(f) and 9621(f); RCRA § 3006, 42 USC § 6926; Connecticut General Statute § 22a-6; and other applicable state law.

V. STATEMENT OF FACTS

A. SITE HISTORY

- 5.1 For purposes of this Agreement, the following constitutes a summary of the facts upon which this Agreement is based. None of the facts related herein shall be considered admissions by any Party.
- 5.2 NSBNL is located in southeastern Connecticut within the Towns of Groton and Ledyard. The main portion of the base is located on the east bank of the Thames river about 6 miles north of the Long Island Sound. It is owned and operated by the United States through the Department of the Navy. The base and its tenant activities perform four main services to the fleet: homeporting submarines, intermediate level maintenance and repairs for submarines, submarine training, and medical care and research in the field of submarine medicine.
- 5.3 The Department of the Navy initiated the Naval Assessment and Control of Installation Pollutants (NACIP) Program on September 11, 1980 to identify and control environmental contaminants from past use and disposal of Hazardous Substances at Navy installations. The program was to be managed in three phases:
 - (i) Phase I - Initial Assessment Study (IAS): identifies potential threats to human health or to the environment caused by past hazardous substance storage, handling or disposal practices at Naval activities.
 - (ii) Phase II - Confirmation Study: analyzes contaminants present at sites of concern and determines their migration paths. The Confirmation Study consists of two steps: The Verification Step, which consists of the performance of on-site investigations to confirm or deny the presence of contamination; and the Characterization Step, which determines the extent of contamination (if present) and the recommendation of

necessary corrective measures.

(iii) Phase III - Remedial Action: provides the required corrective measures to mitigate or eliminate confirmed problems.

5.4 The Initial Assessment Study for NSBNL (IAS) was completed in March 1983, and consisted of an on-site survey and various record and archival searches. The IAS revealed sixteen (16) potential disposal locations which were suspected of containing waste solvents, paint thinners, batteries, lube oil, incinerator ash, solvents, acids, PCBs, petroleum products, herbicides, fungicides, heavy metals, refuse, construction debris, paint sludge, and paint cans. (See Appendix III for more site-specific disposal information). These locations were identified as "sites" or "areas" in the IAS and other technical documents and were as follows:

- site 1 Construction Battalion Unit (CBU) Drum Area [also referred to as Construction Battalion Center (CBC) Drum Area]
- site 2 Area A Landfill (including adjacent wetland and downstream water course)
- site 3 Over-Bank Disposal Area
- site 4 Rubble Fill at Bunker A-86
- site 5 Hazardous Waste Storage Facility - (Bunker A-85)
- site 6 Defense Property Disposal Office (DPDO) Area [also referred to as Defense Reutilization and Marketing Office (DRMO) Area]
- site 7 Torpedo Shop/Otto Fuel Sump
- site 8 Goss Cove Landfill
- site 9 Oily Wastewater Tank (OT-5)
- site 10 Fuel Oil Storage Tanks (lower base)
- site 11 Power Plant Oil Tanks (lower base)
- site 12 Gas Station Tanks (Building 428)
- site 13 Building 79 Waste Oil Pit (lower base)
- site 14 Over-Bank Disposal Area Northeast (OBDANE)

site 15 Spent Acid Storage and Disposal Area

site 16 Hospital Incinerator

The IAS also discusses three "Hazardous Materials/Solvent Storage Areas", a "Weapons Storage and Handling Area," a "Fuel Farm," and a "Classified Materials (Lower Base) Incinerator" which are referred to in this Agreement as Study Areas E, F, G, H, K and M, respectively. In addition, three other locations: Berth 16 (referred to in this Agreement as Study Area I), Pier 33 (referred to herein as Study Area J), and Building 174 (referred to herein as Study Area L) were discovered after the IAS was completed.

5.5 Sites 5, 7, 9, 12, and 16 were not pursued further under the NACIP program because the IAS concluded that these sites were outside the scope of the program since, at the time the IAS study was conducted, they were operational facilities.

5.6 IAS sites 2, 3, 4, 6, 7, 8, and 15 are Areas of Contamination 2, 3, 4, 6, 7, 8, and 15, respectively, as defined in Section 3.1(e) of this Agreement. IAS sites 10, 11 and 13, are for purposes of this Agreement, collectively referred to as Area of Contamination 13, as defined in Section 3.1(e) of this Agreement. IAS sites 1, 5, 9, 14, and 16, are Study Areas A, B, K, C, and D, respectively, as defined in Section 3.1(ff) of the Agreement. The Hazardous Materials/Solvent Storage Areas, Weapons Storage and Handling Area, Berth 16, Pier 33, Fuel Farm (OT-1 through OT-9), Building 174 (Central Paint Accumulation Area, and the (Lower Base) Incinerator referred to in Section 5.4 above are Study Areas E through M, respectively, as defined in Section 3.1(ff). IAS Site 12 is currently being addressed pursuant to State of Connecticut Underground Storage Tank (UST) regulations. New Areas of Contamination and Study Areas may be added to this Agreement pursuant to Section XXXI, (Identification of Study Areas). Appendix II of this Agreement contains maps showing the SAs and AOCs, and Appendix III contains a brief description of each of these areas.

5.7 The Defense Environmental Restoration Program (DERP) was established in 1984 to promote and coordinate efforts for the evaluation and cleanup of contamination at DOD installations. The Program currently consists of two major elements:

- (i) The Installation Restoration Program (IRP) where potential contamination at DOD installations and formerly used properties is investigated and, as necessary, site cleanups are conducted. The IRP provides for compliance with the procedural and

substantive requirements of CERCLA, as well as regulations promulgated under these acts or by state law and is managed in four phases:

- (a) Preliminary Assessment (PA): An initial analysis of existing information to determine if a site requires additional investigation or action;
 - (b) Site Inspection (SI): To augment data collected during the PA and to generate, if necessary, sampling and other field data to determine if further action or investigation is appropriate;
 - (c) Remedial Investigation/Feasibility Study (RI/FS): An extensive technical study conducted to determine the nature and extent of the threat or potential threat posed by the release and determine what action, if any, should be taken to remediate the site; and
 - (d) Remedial Design/Remedial Action (RD/RA) - RD is the translating of the FS into designs and specifications for site remediation. RA is the physical implementation of site remediation.
- (ii) Other Hazardous Waste (OHW) Operations, through which research, development and demonstration programs aimed at reducing DOD hazardous waste generation rates are conducted.
- 5.8 In November, 1987 a site inspection for Subsurface Oil Contamination-Lower Subbase was completed at Sites 10, 11, and 13 by Wehran Engineers and Scientists (Wehran). Further investigation was recommended at these sites.
- 5.9 CERCLA Section 120(c) requires the EPA Administrator to establish a Federal Agency Hazardous Waste Compliance Docket (Docket). The NSBNL was listed on the Docket on February 12, 1988. 53 Federal Register 4286 (1988).
- 5.10 In March 1988, Wehran Engineering Corporation (Wehran) completed a Confirmation Study of three sites at NSBNL. Wehran evaluated the Area A Landfill, Over-Bank Disposal Area and DPDO Area (sites 2, 3 and 6). Based on the information collected, Wehran recommended further investigation including a Site Characterization study (a hydrogeologic investigation), which would determine the presence, nature and extent of contamination in groundwater, surface water, soil, sediment and air.
- 5.11 Pursuant to 10 U.S. 2705(c), a Technical Review Committee (TRC) was formed to facilitate communication and

coordination among the members with regard to response actions undertaken by the Installation Restoration Program at the New London Subbase. The committee members meet periodically to review technical data, remedial investigation reports, feasibility study reports, work plans and other documents relating to the response actions at the NSBNL. Membership on the TRC is composed of representatives from the Navy, the U.S. Environmental Protection Agency-Region I, the State of Connecticut Department of Environmental Protection, the Town of Ledyard, the Town of Groton, the City of Groton, City of Norwich, Town of Waterford, City of New London and independent local citizens of these areas. The initial meeting was held on November 28, 1988. Subsequent meetings have been held for major project milestones.

- 5.12 On May 16, 1988, the Navy contracted with Atlantic Environmental (Atlantic) to initiate a Site Investigation work plan (SI) for sites 1, 4, 7, 8, 14, and 15. Atlantic was also contracted to initiate a Remedial Investigation/Feasibility Study work plan (RI/FS) on sites 2, 3, 6, and 13. These work plans were completed in April 1989 and forwarded to the TRC members.
- 5.13 On October 26, 1989, the EPA proposed adding the NSBNL to the National Priorities List (NPL). 54 Federal Register 43778, 43783 (1988).
- 5.14 On July 26, 1990 a public meeting was held to explain the Installation Restoration Program to the community and allow them to voice any concerns they may have.
- 5.15 In July 1990, the field work commenced in accordance with the SI/RI/FS work plan.
- 5.16 On August 30, 1990, NSBNL was placed on the National Priorities List. 55 Fed. Reg. 35502, 35509 (1990).
- 5.17 The IAS did not include a Radiological Assessment. However, in September 1990, Radiation Safety Associates prepared for the Navy a Radiological Assessment of IAS sites 2, 6, and 8. This assessment concluded that there were no large quantities of gamma emitters near the surface of the surveyed areas. Separately, ground water samples collected during the Navy's August 1991 IRP Phase I Remedial Investigation (RI) from sites 2 and 8 exceeded gross alpha and/or beta radioactivity screening levels. The August 1991 RI report recommended that additional ground water analyses be performed of specific radioisotopes to determine the source of radiological constituents detected. Subsequent to the August 1991 RI, the Navy performed specific radioisotope analyses of ground water samples in December 1991 at sites 2

and 8. These samples showed that radioactivity detected at these sites was attributable to naturally occurring radioisotopes and not to the servicing or operation of nuclear powered warships present at these sites. Additional ground water samples will be collected from Sites 2 and 8 for radionuclide analysis as outlined in the Phase II RI Work Plan to confirm this finding.

- 5.18 In 1966, 1972, and again in 1989, the EPA's National Air and Radiation and Environmental Laboratory, in cooperation with U.S. Naval Sea Systems Command (NAVSEA), conducted a radiological survey in the environs of the NSBNL to assess whether levels of environmental radioactivity resulting from maintenance and operation of nuclear-powered warships at the NSBNL have created elevated levels of radioactivity. The purpose of these surveys was to determine if activities related to nuclear-powered warships resulted in the release of radionuclides which may contribute to significant population exposure or contamination of the environment. The EPA monitoring included analysis of sediment samples collected from the pier and dock areas where nuclear warships were being or had been serviced. In addition, public access or recreational areas and public drinking water supplies in the vicinity of NSBNL were also surveyed for radioactivity.

In the latest report (EPA 520/5-91-004), dated December, 1991, pp. 29-30, EPA concluded as follows:

1. Trace quantities of Co-60 remain in the sediment at all locations investigated; however, the concentrations have significantly decreased since the earlier two surveys and represent no radiological impact to the environment or individuals living or working in the area.
2. Sediment samples that duplicated samples obtained in 1972 contained 8-30 times less Co-60 than the earlier samples, indicating that radioactive decay and sedimentation is naturally reducing the Co-60 levels in surface sediments and that no significant releases of Co-60 have occurred in recent years.
3. No Co-60 was detected in any edible aquatic species.
4. All seven sediment core samples contained low levels of Co-60. The maximum concentration observed was 0.37 pCi/g at a depth of about 18 cm, but this cannot be related to any particular occurrence and indicates the Co-60 is not the result of current operations.

5. Water samples contained no detectable levels of radioactivity other than those occurring naturally.
 6. Gamma-ray measurements did not detect any increased radiation exposure to the public above natural background levels.
 7. Based on these surveys, current practices regarding nuclear-powered warship operations have resulted in no increase in radioactivity that would result in significant population exposure or contamination of the environment.
- 5.19 The Navy is developing and is in the process of implementing a Community Relations Plan (CRP) in accordance with EPA guidance. This plan responds to the need for an interactive relationship with all interested community elements, both on the NSBNL and off, regarding environmental activities conducted pursuant to this Agreement by the Navy.
- 5.20 The Agency for Toxic Substances and Disease Registry (ATSDR) representatives visited the IRP sites and conducted a public meeting on October 10, 1990. Pursuant to CERCLA §104(i)(6)(A), ATSDR issued a Public Health Assessment on May 26, 1993.

B. DETERMINATIONS

- 5.21 NSBNL was listed on the National Priorities List (NPL) update of August 30, 1990 and is therefore subject to the special provisions for Federal Facility NPL sites in CERCLA § 120.
- 5.22 NSBNL at all times relevant to this Agreement is, or has been, controlled by the United States of America.
- 5.23 NSBNL is a facility under the jurisdiction, custody, or control of the U.S. Department of Defense (DOD), within the meaning of Executive Order 12580, 52 Fed. Reg. 2923, January 29, 1987 and within the meaning of DERP, 10 U.S.C. § 2701 et seq., and CERCLA § 120, 42 U.S.C. § 9620. The Navy is authorized to act on behalf of the Secretary of Defense for all functions delegated by the president through Executive Order 12580 which are relevant to this Agreement.
- 5.24 The DOD initiated an Installation Restoration Program (IRP) designed to identify and Remediate Hazardous Substance contamination at NSBNL that threatened the public health, welfare and environment. These investigations identified eleven (11) areas where hazardous Substance contamination was suspected to exist. A description of the areas identified during the investigations are included at Section

5.4 and in Appendix III of this Agreement.

- 5.25 The Navy is the authorized delegate of the President under Executive Order 12580 for receipt of notification of State ARARs required by CERCLA § 121(d)(2)(A)(ii), 42 U.S.C. § 9621(d)(2)(A)(ii).
- 5.26 The actions to be taken pursuant to this Agreement are reasonable and necessary to protect the public health, welfare and the environment.
- 5.27 On the basis of the facts described above in this Section V, EPA has determined that:
- (a) CERCLA § 120(a), 42 U.S.C. § 9620 applies to NSBNL;
 - (b) NSBNL is a facility within the meaning of 101(9) of CERCLA, 42 U.S.C. § 9601(9);
 - (c) Hazardous Substances, pollutants, or contaminants within the meaning of CERCLA §§ 101(14), 42 U.S.C. §§ 9601(14) and, including, but not limited to, trichloroethylene, carbon tetrachloride, PCBs, benzene, xylene and toluene have been disposed of and are located at the Site;
 - (d) There have been releases and there continue to be releases and threatened releases of Hazardous Substances, pollutants, or contaminants into the environment within the meaning of CERCLA §§ 101(22), 42 U.S.C. §§ 9601(22), at and from the Site; and
 - (e) With respect to those releases and threatened releases at the Site, the Navy will take response actions within the meaning of CERCLA and pursuant to Executive Order 12580.

VI. WORK TO BE PERFORMED

- 6.1 The Navy, pursuant to the terms of this Agreement, agrees to perform the tasks, obligations and responsibilities described in this Agreement in accordance with CERCLA, applicable CERCLA guidance and policy, the NCP, RCRA and applicable RCRA guidance and policy, Executive Order 12580, applicable State laws, and all terms and conditions of this Agreement including documents prepared and finalized in accordance with Section VII, (Consultation with EPA and the State).
- 6.2 With respect to integration of past or ongoing Work into Work required by this Agreement, it is the intent of the

Parties that documents completed and data generated prior to the Effective Date of this Agreement be utilized as elements of any SASE and RI/FS documents required under this Agreement to the maximum extent practicable consistent with CERCLA, CERCLA guidance and policy, the NCP, RCRA, applicable RCRA guidance and policy and Federal and State ARARS. The Navy need not halt currently ongoing Work but may be obligated to modify or supplement Work previously completed. Such modification or supplement shall be performed pursuant to the terms of this Agreement to produce a final product which meets the requirements of this Agreement.

- 6.3 The parties have agreed to additional measures set forth in Section XIV, (Deadlines and Schedules) and Appendix IV with regard to the Navy's remedial activities prior to the effective date of this Agreement. The Navy shall perform an SASE as described in Section XXXI, (Identification of Study Areas) of this Agreement at those areas identified as Study Areas.
- 6.4 The Navy, in accordance with this Agreement, agrees to undertake, seek adequate funding for, fully implement and report on the following tasks, with participation of the Parties as set forth in this Agreement:
- (a) Removal actions at areas on the Site which pose or may pose an imminent and substantial endangerment to human health and the environment;
 - (b) Identification of new Study Areas pursuant to Section XXXI, (Identification of Study Areas) of this Agreement;
 - (c) Study Area Screening Evaluations for Study Areas identified pursuant to this Agreement;
 - (d) Remedial Investigations performed for all Areas of Contamination and Operable Units;
 - (e) Feasibility Studies for all Areas of Contamination and Operable Units;
 - (f) Proposed Plans and RODs for all Areas of Contamination and Operable Units;
 - (g) Remedial Actions and Remedial Designs for all Areas of Contamination and Operable Units consistent with the Record of Decision;
 - (h) Operation and Maintenance of Remedial Actions at the Areas of Contamination and Operable Units consistent

with the Record of Decision;

- (i) Prior notice to and consultation with EPA and State of removal and closure of State-regulated underground storage tanks pursuant to applicable law;
- (j) Federal and State Natural Resource Trustee Notification and Coordination;
- (k) Preparation of a Supplemental Initial Assessment Study pursuant to Section 6.6 of this Agreement; and
- (l) Preparation of a Preliminary Assessment pursuant to Section 6.7 of this Agreement.

6.5 The Parties agree to:

- (a) Make their best efforts to expedite the performance of their responsibilities under this Agreement; and
- (b) Conduct all activities under this Agreement so as to protect human health and the environment.

6.6 The Navy shall conduct a Supplemental Initial Assessment Study which will update the Initial Assessment Study, dated March, 1983. The scope of the update shall cover the period from 1983 to present, shall be consistent with that of the Initial Assessment Study, and shall include, without limitation, identification of (i) all hazardous waste storage areas (excluding satellite accumulation areas where there have been no releases), and (ii) all releases of hazardous substances.

6.7 The Navy shall conduct a review of existing information in order to prepare a Preliminary Assessment (PA) pursuant to CERCLA to determine if there have been any releases of radionuclides as defined by CERCLA at NSBNL prior to the effective date of this Agreement which should be further investigated or remediated under this Agreement, and EPA will evaluate the PA according to applicable EPA guidance (including without limitation EPA Guidance on Performing Preliminary Assessments under CERCLA, EPA/540/G-91/013, September, 1991).

VII. CONSULTATION WITH EPA AND THE STATE

Review and Comment Process for Draft and Final Documents

7.1 Applicability:

The provisions of this Section establish the procedures that

shall be used by the Parties to provide each other with appropriate notice, technical support, review, comment, and response to comments regarding documents, specified herein as either Primary or Secondary Documents. In accordance with CERCLA § 120, 42 U.S.C. § 9620, and 10 U.S.C. § 2705, the Navy shall be responsible for issuing Primary and Secondary Documents to EPA and the State, unless otherwise agreed to by all Parties in writing. The designation of a document as "draft" or "final" is solely for purposes of consultation with EPA and the State in accordance with this Section. Such designation does not affect the obligation of the Parties to issue documents, which may be referred to herein as "final", to the public for review and comment as appropriate and as required by law.

The State shall have a minimum of sixty (60) days for its review of any draft Primary and Secondary documents submitted under this Section. If the State determines that it cannot complete its formal review of documents within the designated Timetable below it shall immediately notify the other Parties. Upon determination that it will not complete a formal review of documents in accordance with the Timetable in Sections 7.6 (e) and (f) below, the State may submit informal comments to the Navy and EPA by telephone or memorandum and, if applicable, the Navy and EPA shall respond in kind to such comments. After the expiration of any Timetable regarding review of documents under this Section, the Navy shall not halt Work under this Agreement based on the absence of formal or informal comments from the State.

7.2 Process for Primary Document Review:

- (a) Primary Documents are those reports specified in Section 7.2(b) and 7.2(c). Primary Documents shall be initially issued by the Navy in draft form subject to review and comment by EPA and the State. Following receipt of comments on a particular draft Primary Document, the Navy shall review and respond to the comments received and the Parties shall meet to informally dispute any unresolved issues. Following the informal dispute resolution period, the Navy shall issue to EPA and the State a draft final Primary Document or those portions of the draft document amended during informal dispute resolution. EPA and the State may either issue a Letter of Concurrence regarding the draft final Primary Document (which shall include those portions of the document amended during the informal dispute period) or invoke Formal Dispute Resolution. The Navy shall submit a Final Primary Document either within sixty (60) days after issuance of a Letter of Concurrence or within 45 days of a

decision pursuant to Dispute Resolution. In the absence of either the issuance of a Letter of Concurrence or formal Dispute Resolution, the draft final Primary Document will become the final document.

- (b) Prior to the Effective Date of this Agreement, the Navy has forwarded the following Primary Documents to EPA and the State:
 - (i) Final Plan of Action for Installation Restoration (IR) - August 1989,
 - (ii) Phase I RI Report (SI/RI) - August 1992,
 - (iii) Phase II RI Work Plan - March 1993.
- (c) The Navy for each Study Area or AOC shall complete and transmit the applicable draft document for the following Primary Documents, to EPA and the State for review and comment in accordance with the provisions of this Section:
 - (i) Scope of Work for RI/FS
 - (ii) Supplemental Initial Assessment Study pursuant to Section 6.6 of this Agreement
 - (iii) Preliminary Assessment pursuant to Section 6.7 of this Agreement
 - (iv) Study Area Screening Evaluation Report
 - (v) RI/FS Work Plan (and any RI/FS Work Plan addenda for subsequent phases)
 - (vi) Phase I Remedial Investigation (RI) Report (including Sampling and Data Results, Risk Assessment Preliminary Analysis of Alternatives),
 - (vii) Phase II Remedial Investigation (RI) Work Plan
 - (viii) Phase II Remedial Investigation (RI) Report (including Sampling and Data Results, Risk Assessment Addendum, if warranted by the scope of the Remedial Investigation)
 - (ix) RI/FS Report (including Treatability and Pilot Study(s), Initial Screening of Alternatives, Detailed Analysis of Alternatives, and Risk Assessment Addendum, if warranted by the scope of the Remedial Investigation)

- (x) Proposed Plan
 - (xi) Scope of Work for RD/RA
 - (xii) Remedial Design (RD) Work Plan
 - (xiii) Sixty percent (60%) Remedial Design (including QA/QC and Contingency Plan)
 - (xiv) Final Remedial Design (including Remedial Action Work Plan and Final Construction QA/QC Project Plan)
 - (xv) Project Closeout Report
- (d) The Navy shall complete and transmit draft Primary Documents in accordance with the Timetable and Deadlines established in Section XIV, (Deadlines and Schedules), and Appendix IV of this Agreement. Only the draft final for the Primary Documents identified above shall be subject to dispute resolution.

7.3 Secondary Documents:

- (a) Secondary Documents include those documents that are discrete portions of the Primary Documents and are typically input or feeder documents. Secondary Documents shall be issued by the Navy in draft subject to review and comment by EPA and the State. Although the Navy shall respond to comments received from the EPA and the State, the draft Secondary Documents may be finalized in the context of the corresponding draft Primary Documents;
- (b) The Navy shall complete and transmit draft documents for the following Secondary Documents to EPA and the State for review and comment in accordance with the provisions of this Section:
 - (i) Study Area Screening Evaluation Work Plan
 - (ii) Initial Screening of Alternatives
 - (iii) Detailed Analysis of Alternatives
 - (iv) Treatability and Pilot Study Work Plan (if warranted by the scope of the RI/FS)
 - (v) Treatability and Pilot Study(ies) (if warranted by the scope of the RI/FS)
 - (vi) Sampling and Data Results

(vii) Remedial Action Work Plan

(viii) Pre-Final Remedial Design (85%)

- (c) Although the EPA and the State may comment on the draft reports for the Secondary Documents listed above, such documents shall be subject to Dispute Resolution only at the time the corresponding draft final Primary Document is issued as set forth in 7.2 (a) hereof. Target Dates shall be submitted by the Navy to EPA and the State for the completion and transmission of draft Secondary Documents. The purpose of Target Dates is to assist the Navy in meeting deadlines, but target dates do not become enforceable by their inclusion in the Primary Documents and are not subject to the Section XIV (Deadlines), Section XV (Extensions), or Section XXI (Enforceability) of this Agreement.

7.4 Meetings of the Project Managers on Development of Reports:

The Project Managers shall meet in person or confer by telephone every thirty (30) days, except as otherwise agreed by the Parties, to review and discuss the progress of Work being performed at the Site, including progress on the Primary and Secondary Documents. Prior to preparing any draft report specified in Sections 7.2 and 7.3 above, the Project Managers shall meet in an effort to reach a common understanding to the maximum extent practicable with respect to the contents of the draft document. At least one week prior to each scheduled Project Managers meeting, the Navy will provide to the EPA and the State a draft agenda and summary of the status of the work subject to this Agreement. At a minimum these status reports shall include:

- (a) All results of sampling tests (including screening data when requested by EPA or State) tests, and all other data (or summary thereof) received or generated by the Navy during the reporting period consistent with the limitations of Section 10.1;
- (b) All activities completed pursuant to this Agreement since the last Project Managers meeting as well as such actions and plans which are scheduled for the upcoming ninety (90) days; and
- (c) Descriptions of any delays, the reasons for such delays, anticipated delays, concerns over possible Timetable implementation or problems that arise in the execution of a Work Plan during the quarter and any steps that were taken to alleviate the delays or problems.

The minutes of each Project Managers meeting, with the meeting agenda and all documents discussed during the meeting (which were not previously provided as attachments), will be sent to all Project Managers within twenty-one (21) days after the meeting. If more than ninety (90) days will occur between Project Managers meetings, the Navy shall prepare and submit to EPA and the State within the ninety (90) day period, a summary of the status of the work subject to the Agreement as described above, including progress on Primary and Secondary Documents.

7.5 Identification and Determination of Potential ARARs

- (a) For those Primary Documents or Secondary Documents that consist of, or include ARAR determinations, the Parties' Project Managers shall, prior to the issuance of a draft document, meet to identify and propose, to the best of their ability, all potential ARARs pertinent to the document being addressed. Draft ARAR determinations shall be prepared by the Navy in accordance with CERCLA § 121(d)(2), 42 U.S.C. § 9621(d)(2), the NCP and pertinent guidance issued by EPA that is consistent with CERCLA and the NCP. The State shall identify all potential State ARARs as early in the remedial process as possible consistent with the requirements of CERCLA § 121 and the NCP. The Navy shall consider written identification and interpretation of ARARs provided by the State. In identifying potential ARARs, the Parties recognize that actual ARARs can be identified only on a location, chemical, and action specific basis and that ARARs depend on the specific Hazardous Substances, pollutants and contaminants at the location, the particular actions proposed as a remedy and the characteristics of the AOC or OU. The Parties recognize that ARAR identification is necessarily an iterative process and that potential ARARs must be reexamined throughout the RI/FS process until a ROD is issued.
- (b) ARARs shall apply under this Agreement in the same manner and to the same extent that ARARs are applied to a non-Federal Facility pursuant to CERCLA § 120(a)(1) and the NCP.

7.6 Review and Comment on Draft Documents

- (a) The Navy shall complete and transmit each draft Primary Document to EPA and the State on or before the corresponding Deadline established for the issuance of such documents pursuant to Section XIV, (Deadlines and Schedules), of this Agreement.

The Navy shall complete and transmit each draft Secondary Document in accordance with the target dates established for the issuance of such Documents.

- (b) Unless the Parties mutually agree to another time period, all draft documents shall be subject to the review times specified in 7.6(e) and (f). Review of any document by the EPA and the State may concern all aspects of the document (including completeness) and should include, but is not limited to, technical evaluation of any aspect of the document, and consistency with CERCLA, the NCP, any pertinent guidance or policy issued by the EPA, and with applicable State law. To expedite the review process, the Navy shall make an oral presentation of primary document(s) to the Parties at the next scheduled meeting of the Project Managers subsequent to the transmittal of the draft document. Comments by the EPA and the State shall be provided with adequate specificity so that the Navy may respond to the comments and, if appropriate, make changes to the draft document. Comments shall refer to any pertinent sources of authority or references upon which the comments are based, and upon request of the Navy, the EPA and the State shall provide a copy of the cited authority or reference. EPA and the State shall transmit their written comments to the Navy on or before the close of the comment period;
- (c) Representatives of the Navy shall make themselves, and Navy contractors, if appropriate, readily available to EPA and the State during the comment period for purposes of informally responding to questions and comments on draft documents. Oral comments made during discussions need not be the subject of a written response by the Navy on the close of the comment period;
- (d) In commenting on a draft document which contains a proposed ARAR determination, EPA and the State shall include a reasoned statement of whether they object to any portion of the proposed ARAR determination. To the extent that EPA or the State objects, it shall explain in detail the basis for the objection(s) and shall identify any ARARs which it believes are not properly addressed in the proposed ARAR determination. If the Navy rejects an EPA or State ARAR determination, it shall explain in detail the basis for its rejection;
- (e) The review and comment period for all draft Primary and Secondary documents developed and submitted by the Navy to the EPA and State for which public comment

periods are not required shall be as follows:

- (1) EPA/State review of draft Secondary and Primary Documents-----60 days
 - (2) Navy review and response to EPA/State comments of draft Primary and Secondary Documents-----45 days
 - (3) Meeting(s) held to informally dispute any unresolved issues regarding draft Primary Documents or discuss any unresolved issues regarding draft Secondary Documents; Navy submittal of draft final Primary and Secondary Documents-----45 days
 - (4) EPA/State submit Letter of Concurrence with draft final Primary Document or invoke Formal Dispute Resolution in accordance with Section XIII (Dispute Resolution)-----30 days
 - (5) Navy issuance of final Primary Document after Navy submittal of draft final Primary Document pursuant to Section 7.6 (e) (3)-----60 days
 - (6) Navy issuance of final Primary Document which conforms to the results of Dispute Resolution-----45 days
- (f) The review and comment period for the draft Proposed Plan, which requires a public comment period shall be as follows:
- (1) EPA/State initial review of the draft Proposed Plan-----60 days
 - (2) Meeting(s) held to discuss EPA/State comments regarding draft Proposed Plan; Navy submittal of draft final Proposed Plan-----45 days
 - (3) EPA/and State each submit Letter of Concurrence with draft final Proposed Plan or invoke Formal Dispute Resolution in accordance with Section XIII, (Dispute Resolution)-----30 days
 - (4) Navy issue final Proposed Plan for public comment after submittal of draft final Proposed Plan or upon conclusion of dispute resolution pursuant to Section 7.6(f) (3)-----45 days
 - (5) Public comment on Proposed Plan-----30 days

(6) Navy submittal of draft ROD and Responsiveness Summary to EPA and State upon close of Public Comment period pursuant to Section 7.6(f)(5) (See Section 17.3)-----45 days

(g) Any Party may extend any review, document issuance, or comment period set out in Section 7.6(e) and (f) hereof for fifteen (15) days, by providing a written notice to the other Parties at least seven (7) days prior to the close of such comment period, if practicable. In appropriate circumstances, this time period may be further extended in accordance with Section XV (Extensions).

7.7 Availability of Dispute Resolution for Draft Final Primary Documents:

(a) Dispute Resolution shall be available to the Parties for draft final Primary Document as set forth in Section XIII, (Dispute Resolution);

(b) When Dispute Resolution is invoked on a draft final Primary Document, Work may be stopped in accordance with the procedures set forth in Section XIII, (Dispute Resolution).

7.8 Finalization of Reports:

The draft final Primary Document shall serve as the final Primary Document after opportunity for review and comment by the EPA and the State, if no party invokes Dispute Resolution regarding the document or, if invoked, at completion of the Dispute Resolution process should the Navy's position be sustained. If the Navy's position is not sustained in the Dispute Resolution process, the Navy shall prepare, within forty-five (45) days, a revision of the draft final Primary Document which conforms to the results of Dispute Resolution. In appropriate circumstances, the time period for this revision period may be extended in accordance with Section XV (Extensions). Once final, the Navy shall implement the Primary Document pursuant to the terms of this Agreement.

7.9 Subsequent Modifications of Timetables, Final Reports and Additional Work:

(a) Following finalization of any Primary Document pursuant to Section 7.8 above, any party may seek to modify a report, including seeking additional field Work, pilot studies, computer modeling or other supporting technical Work only as provided in 7.9(a) and (b). A party may seek to modify a report after finalization if

it determines, based on Significant New Information (as defined in Section 3.1(aa) of this Agreement) that the requested modification is necessary. Any Party may seek such a modification by submitting a concise written request to the Project Managers of the other Parties. The request shall specify the nature of the requested modification and the Significant New Information upon which the requested modification is based.

- (b) If the Parties' Project Managers reach a consensus that a modification should be made, the appropriate time periods in Sections 7.6(e) and (f) shall apply, unless the Parties' Project Managers agree to shorter time periods.
- (c) In the event that a consensus is not reached by the Project Managers on the need for a modification, any Party may invoke Dispute Resolution to determine if such modification shall be conducted. Modification of a document shall be required only upon a showing that:
 - (1) The requested modification is based on Significant New Information; and
 - (2) The requested modification could be of significant assistance in evaluating impacts on human health and the environment, in evaluating the selection of Remedial Action alternatives, or in protecting human health and the environment.

7.10 Nothing in this Section shall alter EPA's or the State's authority to request the performance of additional work that was not contemplated by this Agreement. The Navy's obligation to perform such work must be established by either a modification of a report or document or by amendment to this Agreement. The Navy agrees to perform such Additional Work pursuant to the terms of this Agreement.

VIII. PROJECT MANAGERS

8.1 Prior to the Effective Date of this Agreement, the Parties shall each designate a Project Manager and notify the other Parties of the name and address of their Project Manager. The Parties' Project Managers shall be responsible for assuring implementation of all SASE, RI/FS, and RD/RA in accordance with the terms of this Agreement. Communications between all Parties on all documents, including reports, comments, and other correspondence concerning the activities performed pursuant to this Agreement to the extent practicable, shall be directed by Section XXX, (Notices and

Submissions).

- 8.2 The Parties may change their respective Project Managers. Such change shall be accomplished by notifying the other Parties in writing within five (5) days in of the change.
- 8.3 The Parties' Project Managers shall meet and discuss progress as described in Section 7.4.
- 8.4 A Project Manager may recommend and request minor field modifications to the Work performed pursuant to this Agreement, or in techniques, procedures or designs utilized in carrying out this Agreement. The minor field modifications proposed under this Section must be approved orally by each Party's Project Managers to be effective. No such Work modifications can be so implemented if an increase in contract cost will result without the authorization of the Navy Contracting Officer.
- 8.5 If agreement cannot be reached on the proposed field modification to Work discussed in Section 8.4 above, the Dispute Resolution provisions of Section XIII, (Dispute Resolution) of this Agreement may be invoked by the Party requesting the modification by submitting a written statement to the other Parties in accordance with Section XIII, (Dispute Resolution). If the Parties agree to the modification, within five (5) business days following such modification made pursuant to Section 8.4 above, the Party requesting the modification shall prepare a memorandum detailing the modification and the reasons therefore and shall provide or mail a copy of the memorandum to the other Parties for signature and return. Modifications of Work not provided for in Section 8.4 of this Section must be approved in accordance with Section 7.9 of this Agreement.
- 8.6 The Project Manager for the Navy shall represent the Navy with regard to the day-to-day field activities at the Site. The Navy Project Manager or other designated employee of the Navy shall be physically present at the Site or available to supervise Work during implementation of the Work performed at the Site pursuant to this Agreement. For all times that such Work is being performed, the Navy Project Manager shall inform the Public Works Officer at NSBNL and the other Project Managers of the name and telephone number of any designated employee responsible for supervising the Work. The absence of the EPA or State Project Managers from the Site shall not be cause for Work stoppage or delay, unless the Project Managers agree otherwise in writing.
- 8.7 Each Party's Project Manager shall be responsible for ensuring that all communications received from the other Project Managers are appropriately disseminated to and

processed by the Party which each represents.

- 8.8 The Parties shall transmit Primary and Secondary Documents and all notices required herein to the Project Managers specified in Section 30.1 by applicable Timetable in the Agreement. The Navy shall provide to EPA and the State eight (8) and three (3) copies respectively of each Primary and Secondary document.
- 8.9 The authority of the Project Managers shall include, but is not limited to:
- (a) Taking samples and ensuring that sampling and other field Work is performed in accordance with the terms of any final Work Plan and QAPP;
 - (b) Observing, taking photographs and making such other reports on the progress of the Work as the Project Managers deem appropriate, subject to the limitations set forth in Section IX, (Access) hereof;
 - (c) Reviewing sampling data, records, files and documents relevant to the Agreement, subject to the limitations set forth in Section XXXVI, (Release of Records); and
 - (d) Determining the form and specific content of the Project Manager meetings.

IX. ACCESS

- 9.1 Without limitation of any authority conferred on the Parties by statute or regulation, EPA, the State or their authorized representatives shall be allowed to enter NSBNL at reasonable times for purposes consistent with the provisions of the Agreement, subject to any statutory and regulatory requirements necessary to protect national security or mission essential activities. Such access shall include, but not be limited to:
- (a) inspecting records, operating logs, and other documents necessary to implementation of this Agreement subject to the limitations of Section XXXVI, (Release of Records);
 - (b) monitoring field activities of the Navy and Navy contractors, lessees, and employees to assure that such activities are carried out in compliance with the terms of this Agreement;
 - (c) verifying data or information submitted by the Navy to the EPA and the State;

- (d) conducting such tests that the EPA or the State Project Managers deem necessary;
 - (e) assessing the need for planning additional Remedial Actions at the Site.
- 9.2 The Navy shall honor all requests for access at reasonable times by the EPA or the State, conditioned upon presentation of credentials showing the bearer's identification and that he/she is an employee or agent of the EPA or State authorized to work on the Remedial Action pursuant to this Agreement. The Navy Project Manager or his/her designee will provide briefing information, coordinate access and escort to restricted or controlled-access areas, arrange for base passes and coordinate any other access requests which arise. The Navy shall use best efforts to ensure that conformance with the requirements of this Section do not delay access.
- 9.3 EPA and the State shall provide reasonable notice (which shall, if practicable, be 48 hours advance notice) to the Navy Project Manager to request any necessary escorts. The Navy shall not require an escort to any area of the Site unless it is a restricted or controlled-access area. Upon request of EPA or the State, the Navy shall promptly provide a written list of current restricted or controlled-access areas. Nothing in this Agreement shall preclude the Navy Project Manager or his delegate from accompanying EPA or State employees, or their agents, whenever they are present on the Site.
- 9.4 The access by EPA and the State granted in Section 9.1 shall be subject to the protection of national security and mission essential activities. Such regulation shall not be applied so as to unreasonably hinder EPA or the State from carrying out their responsibilities and authority pursuant to this Agreement. In the event that access requested by either EPA or the State is denied by the Navy, the Navy shall provide an explanation within 48 hours of the reason for the denial, including reference to the applicable regulations, and, upon request, a copy of such regulations. The Navy shall expeditiously make alternative arrangements for accommodating the requested access. The Parties agree that this Agreement is subject to CERCLA § 120(j), 42 U.S.C. § 9620(j), regarding the issuance of Site specific Presidential Orders as may be necessary to protect national security.
- 9.5 If EPA or the State requests access in order to observe a sampling event or other work being conducted pursuant to this Agreement, and access is denied or limited, the Navy agrees to reschedule or postpone such sampling or

work if EPA or the State so requests, until such mutually agreeable time when the requested access is allowed. The Navy shall not restrict the access rights of the EPA or the State to any greater extent than the Navy restricts the access rights of its contractors performing work pursuant to this Agreement.

- 9.6 All Parties with access to NSBNL pursuant to this Section shall comply with all applicable health and safety plans.
- 9.7 To the extent the activities pursuant to this Agreement must be carried out on other than Navy property, the Navy shall use its best efforts, including its authority under CERCLA Section 104, to obtain access agreements from the owners which shall provide reasonable access for the Navy, EPA, and the State and their representatives. Although the Navy may chose to do so, nothing in this Section requires the Navy to purchase easements or pay for access to such non-Navy property. In the event that such access is not obtained within a reasonable time to avoid interference with on-going Remedial actions, the Navy shall notify the EPA and the State regarding the lack of the necessary access agreements and describe the efforts to obtain such access agreements. EPA and the State may thereafter, consistent with their authority, assist the Navy in obtaining access. The Navy shall submit to EPA and the State appropriate modifications to any Remedial Action affected by the inability of the Navy to obtain proper access.
- 9.8 With respect to non-Navy property or property leased from the Navy at NSBNL on which monitoring wells, pumping wells, or other Response Actions are to be located, the Navy shall use its best efforts to ensure that any access agreements shall provide for the continued right of entry for all Parties for the performance of such remedial activities. In addition, any access agreement shall provide: (i) that no conveyance of title, easement, or other interest in the property shall be consummated without the continued right of entry; (ii) that the owners or lessees of any such property shall notify the Navy, EPA and the State by certified mail, at least sixty (60) days prior to any conveyance of an interest in the property, of the property owner's or lessee's intent to convey and of the provisions made for the continued operation of the monitoring wells, treatment facilities, or other Remedial Actions pursuant to this Agreement; and (iii) that EPA and the State shall have identical access as Navy.
- 9.9 The Navy shall take appropriate actions to ensure that all Remedial Actions to be undertaken pursuant to this Agreement will not be impeded or impaired by any transfer of title or

transfer of any other interest in real property relating to the NSBNL or any structures located thereon. Such actions shall include, but shall not be limited to, ensuring that the Parties shall have the rights of access to and over such property which are set forth in Section 9.1. The Navy shall use best efforts to ensure that the owners or lessees of any such property shall notify the Navy, EPA and the State by certified mail, at least sixty (60) days prior to any conveyance of an interest in the property, of the property owner's or lessee's intent to transfer any interest in the property and of the provisions made for the continued operation of the monitoring wells, treatment facilities, or other Remedial Action, if any, pursuant to this Agreement.

- 9.10 Nothing in this Section shall be construed to limit EPA's full right of access as provided in 42 U.S.C. § 9604(e), except as that right may be limited by 42 U.S.C § 9620(j)(2), E.O. 12580, or other applicable national security regulations or federal law.

X. DATA AND DOCUMENT AVAILABILITY

- 10.1 The Navy shall make all sampling results, test results or other data generated through the implementation of this Agreement available to the other Parties. If data validation is not completed within ninety (90) days after the last sample of a discrete sampling event is taken in the field, the Navy shall request raw data or results and shall forward such data or test results to EPA and the State within five (5) working days of receipt of such data or test results by the Navy Project Manager. EPA and the State shall similarly make available to the Navy the results of sampling, tests or other data generated by EPA or the State.
- 10.2 At the request of EPA or the State, the Navy shall allow, to the extent practicable, split or duplicate samples to be taken by EPA or the State, or their authorized representatives, of any samples collected by the Navy pursuant to the implementation of this Agreement. At the request of the Navy, the EPA or the State shall allow, to the extent practicable, split or duplicate samples to be taken by the Navy or their authorized representative, of any samples collected by EPA or the State pursuant to the implementation of this Agreement. The Parties shall notify the other Parties not less than fifteen (15) days in advance of any scheduled sample collection activity, unless otherwise agreed upon by the Parties.
- 10.3 The Parties shall use the following EPA-approved Quality Assurance, Quality Control and chain of custody procedures throughout all sample collection and analyses activities:

EPA Region I Laboratory Data Validation Functional Guidelines for Evaluating Organic Analysis, February 1, 1988, modified November 1, 1988.

EPA Region I Laboratory Data Validation Functional Guidelines for Evaluating Inorganic Analyses, February 1, 1988, modified November 1, 1988.

EPA Statement of Work for Organic Analysis, Multimedia, Multi-concentration, 2/88.

EPA Statement of Work for Inorganic Analysis, Multimedia, Multi-concentration, 7/88.

- 10.4 If preliminary analysis indicates an imminent or substantial endangerment to the human health or the environment, all other Project Managers shall be immediately notified.

XI. PERMITS

- 11.1 The Navy shall be responsible for obtaining all Federal, State and local permits which are necessary for the performance of Work required by the Navy under this Agreement.
- 11.2 The Parties recognize that pursuant to CERCLA § 121(e)(1), 42 U.S.C. § 9621(e)(1), and the NCP, portions of the Response Actions called for by this Agreement and conducted entirely on the Site are exempt from the procedural requirement to obtain Federal, State, or local permits. All activities must, however, comply with all Federal and State standards, requirements, criteria or limitations which would have been included in any such permit as required by CERCLA § 121.
- 11.3 This Section is not intended to relieve the Navy from the requirement(s) of obtaining a permit whenever it proposes a Response Action involving the shipment or movement of a Hazardous Substance pollutant or contaminant off the Site or in any other circumstances where the exemption provided for at 42 U.S.C. § 9621(e) does not apply.
- 11.4 The Navy shall notify EPA and the State in writing of any permits required for any activities it plans to undertake as soon as it becomes aware of the requirement. Should the Navy apply for such a permit and provided EPA and the State are not issuing the permit, the Navy shall provide EPA and the State with copies of the permit.
- 11.5 During any appeal by any Party of any permit required to implement this Agreement or during review of any proposed

modification(s) to the permit, the Navy shall continue to implement those portions of this Agreement which can be reasonably implemented independent of final resolution of the permit issue(s) under appeal. However, as to Work that cannot be so implemented, any corresponding Timetables, Deadlines, or Schedules shall be subject to Section XV, (Extensions), of this Agreement.

XII. REMOVAL AND EMERGENCY ACTION

- 12.1 Nothing in this Agreement shall alter the Navy's authority with respect to Removal Actions conducted pursuant to Section 104 of CERCLA, 42 U.S.C. Section 9604. Nothing in this Agreement shall alter any authority the State or EPA may have with respect to Removal Actions conducted at the Site.
- 12.2 Any Removal Action conducted on the Site shall be conducted in a manner consistent with this Agreement, CERCLA, Executive Order 12580, DERP, the NCP, and any applicable state law. All activities conducted pursuant to this Section will be performed in accordance with the applicable Health and Safety Plan and will be performed so as to minimize the threat to the surrounding public.
- 12.3 **Discovery and Notification.** If any Party discovers or becomes aware of an emergency or other situation that endangers public health or safety or the environment at or near the Site, which is related to or may affect the work performed under this Agreement, that Party shall as soon as practicable notify all other Parties. If the emergency arises from activities conducted pursuant to this Agreement, the Navy shall then as soon as practicable notify the appropriate State and local agencies and affected members of the public in accordance with 10 U.S.C. 2705(a).
- 12.4 If a Party determines that there is an endangerment to the public health or welfare or the environment because of an actual or threatened release of a Hazardous Substance, pollutant or contaminant at or from the Site, the Party may request that the Navy take such Removal Actions as may be necessary to abate such danger or threat and to protect the public health or welfare or the environment. Such actions might include provision of alternative drinking water supplies or other Removal Actions listed in CERCLA Section 101(23). The Navy's decision whether to undertake such requested Removal Actions is not subject to Dispute Resolution under Section XIII, (Dispute Resolution) of this Agreement. The EPA and the Navy agree to negotiate an amendment to the previous sentence, after the Effective Date of this Agreement, if there is a change in Removal Action

authority at federal facilities as currently provided in Executive Order 12580.

- 12.5 If during the course of performing the activities required under this Agreement, the Navy identifies an actual or a substantial threat of a release of any hazardous substance from the site, the Navy may propose that it undertake actions to abate the danger and threat which may be posed by such actual or threatened release. Actions may include, but are not limited to, a removal or treatment or both. A proposal to undertake such actions by the Navy shall be submitted to EPA and the State for review and comment and shall include:
- a. Documentation of the actual or threatened release from the site;
 - b. Documentation that the actions posed will abate the danger and threat which may be posed by release of Hazardous Substances from the Site;
 - c. Documentation that the action is consistent with the NCP and, to the extent practicable, will contribute to the efficient performance of any long-term Remedial Action with respect to the release or threatened release concerned;
 - d. A screening and evaluation of several action alternatives which address the actual or threatened release from the site, which screening shall be based on cost, feasibility, and effectiveness of the alternative actions; and,
 - e. A work plan and schedule for the proposed action.
- 12.6 The opportunity for review and comment for proposed Removal Actions, as stated in Section 12.4 above, may not apply if the action is in the nature of an emergency removal taken because of an imminent and substantial endangerment to human health or the environment. The Navy may determine that review and comment, as stated in 12.4 above, is impractical. However, in the case of an emergency removal action, the Navy shall provide EPA and the State with oral notice as soon as possible and written notice within 48 hours after the Navy determines that an emergency removal is necessary. Within 7 days after initiating an emergency Removal Action, the Navy shall provide the EPA and the State with the written basis (factual, technical and scientific) for such action and any available documents supporting such action. Upon completion of an emergency Removal Action, the Navy shall state whether, and to what extent, the emergency Removal Action varied from the description of the action in

the written notice provided pursuant to this Section. Such actions may be conducted at any time, either before or after the issuance of a ROD.

- 12.7 **Work Stoppage.** In the event any Party determines that activities conducted pursuant to this Agreement will cause or otherwise be threatened by a situation described in Section 12.3, the Party may propose the termination of such activities. If the Parties mutually agree, the activities shall be stopped for such a period of time as is required to abate the danger. In the absence of mutual agreement, the activities shall be stopped in accordance with the proposal, and the matter shall be immediately referred to the EPA Hazardous Waste Management Division Director for a work stoppage determination in accordance with Section 13.10.

XIII. DISPUTE RESOLUTION

- 13.1 Except as specifically set forth elsewhere in this Agreement, if a dispute arises under this Agreement, the procedures of this Section shall apply.
- 13.2 **INFORMAL DISPUTE RESOLUTION.** Prior to any Party's issuance of a written statement of dispute, the disputing Party shall engage the other Parties in informal Dispute Resolution through the Project Managers and/or their immediate supervisors. During this informal Dispute Resolution period, the Parties shall meet as many times as are necessary to discuss and attempt resolution of the dispute. If resolution of a dispute cannot be achieved informally, the procedures of Section 13.3 through 13.12 may be implemented to resolve a dispute.
- 13.3 **FORMAL DISPUTE RESOLUTION.** Within thirty (30) days after: (1) the issuance of a draft final Primary document pursuant to Section VII (Consultation with EPA and the State), or (2) any action which leads to or generates a dispute, the disputing Party shall submit to the other Parties a written statement of dispute setting forth the nature of the dispute, the Work affected by the dispute, the disputing Party's position with respect to the dispute and the technical, legal or factual information the disputing Party is relying upon to support its position.
- 13.4 The Dispute Resolution Committee (DRC) is hereby established for the purpose of resolving disputes arising under this Agreement. The DRC will serve as a forum for resolution of disputes for which agreement has not been reached through informal Dispute Resolution. The Parties shall each designate one individual and an alternate to serve on the DRC. The individuals designated to serve on the DRC shall

be employed at the policy level (Senior Executive Service (SES) or equivalent) or be delegated the authority to participate on the DRC for the purposes of Dispute Resolution under this Agreement. The EPA representative on the DRC is the Waste Management Division Director of EPA's Region I (EPA Division Director). The State's representative on the DRC is the Director of Permitting, Enforcement and Remediation Division, Bureau of Water Management, Department of Environmental Protection. The Navy's designated member is the Commanding Officer, Naval Facilities Engineering Command, Northern Division, or his representative. Written notice of any delegation of authority from the Party's designated representative on the DRC shall be provided to all other Parties pursuant to the procedures of Section XXX, (Notices and Submissions).

- 13.5 Following the submittal of a dispute to the DRC, the DRC shall have twenty-one (21) days to unanimously resolve the dispute and issue a written decision signed by all Parties. If the DRC is unable to unanimously resolve the dispute within this twenty-one (21) day period, the written statement of dispute shall be forwarded to the Senior Executive Committee (SEC) for resolution within fourteen (14) days after the twenty-one (21) day resolution period.
- 13.6 An SEC is hereby established for the purpose of resolving disputes for which agreement has not been reached by the DRC. The EPA representative on the SEC is the Regional Administrator of EPA's Region I. The State representative on the SEC is the Commissioner, Department of Environmental Protection and the Navy representative on the SEC is the Commander, Naval Facilities Engineering Command, or his representative. The SEC members shall, as appropriate, confer, meet and exert their best efforts to resolve the dispute and issue a unanimous written decision signed by all Parties. EPA's Regional Administrator shall issue a written position within twenty-one (21) days if unanimous resolution of the dispute is not reached. The Navy or the State may, within twenty-one (21) days of the Regional Administrator's issuance of EPA's position, issue a written notice elevating the dispute to the Administrator of United States EPA for resolution in accordance with all applicable laws and procedures. In the event that a Party elects not to elevate the dispute to the Administrator within the designated twenty-one (21) day period, the Party shall be deemed to have agreed with the Regional Administrator's written position with respect to the dispute.
- 13.7 Upon submittal of a dispute for resolution to the Administrator of EPA pursuant to Section 13.6 above, the Administrator will review and resolve the dispute within twenty-one (21) days. Upon request, and prior to resolving

the dispute, the EPA Administrator shall meet and confer with the Navy's representative of the office of the Secretary of the Navy and the State of Connecticut's representative to discuss the issue(s) under dispute. Upon resolution, the Administrator shall provide the other Parties with a written final decision setting forth the resolution of the dispute and a statement of the information upon which the decision is based. The duties of the Administrator set forth in this Section shall not be delegated.

- 13.8 The State reserves its right to maintain an action under CERCLA § 121 (f) (3) (B), 42 U.S.C. § 9621(f) (3) (B) to challenge the selection of a Remedial Action that does not attain a legally Applicable or Relevant and Appropriate Requirement, standard, criteria or limitation.
- 13.9 The pendency of any dispute under this Section shall not affect the Navy's responsibility for timely performance of the Work required by this Agreement, except that the time period for completion of Work affected by such dispute shall be extended for a period of time usually not to exceed the actual time taken to resolve any good faith dispute in accordance with the procedures specified herein. All elements of the Work required by this Agreement, which are not affected by the dispute, shall continue to be completed in accordance with the applicable Timetable.
- 13.10 When Dispute Resolution is in progress, Work affected by the dispute will immediately be discontinued if the EPA Region I Waste Management Division Director requests, in writing, that Work related to the dispute be stopped because, in EPA's opinion, such Work is inadequate or defective, and such inadequacy or defect is likely to yield an adverse effect on human health and the environment, or is likely to have a substantial adverse effect on the remedy selection or implementation process. The State may request the U.S. EPA's Region I Division Director to order Work be stopped for the reasons set forth above. To the extent possible, the Parties seeking a Work stoppage shall consult with the other Parties prior to initiating a Work stoppage request. After stoppage of Work, if a Party believes the Work stoppage is inappropriate or may have potential significant adverse impacts, the Party may meet with all the other Parties to discuss the Work stoppage. Following this meeting, and further consideration of the issues, the EPA Division Director will issue, in writing, a final decision with respect to the Work stoppage. The final written decision of the EPA Division Director may immediately be subjected to formal Dispute Resolution. Such dispute may be brought directly to either the DRC or the SEC, at the discretion of the Party requesting Dispute Resolution.

13.11 Within twenty-one (21) days of resolution of a dispute pursuant to the procedures specified in this Section the Navy shall incorporate the resolution and final determination into the appropriate plan, Timetable or procedures and proceed to implement this Agreement according to the amended plan, Timetable or procedures.

13.12 Except as provided in Section 13.8, resolution of a dispute pursuant to this Section of the Agreement constitutes a final resolution to any dispute arising under this Agreement. The parties shall abide by all terms and conditions of any final resolution of dispute obtained pursuant to this Section of this Agreement.

XIV. DEADLINES AND SCHEDULES

14.1 The Parties agree to the Deadlines set forth in Appendix IV of this Agreement for completion of the following draft Primary Documents:

- (a) Supplemental Initial Assessment Study pursuant to Section 6.6 of this Agreement;
- (b) Preliminary Assessment pursuant to Section 6.7 of this Agreement;
- (c) Study Area Screening Evaluation (SASE) Report;
- (d) RI/FS Work Plan (and any RI/FS Work Plan addenda for subsequent phases) (including Introduction, Background and Physical Setting, Health and Safety Plan, Quality Assurance Project Plan, Sampling and Analysis Plan, and Data Management Plan);
- (e) Phase I Remedial Investigation (RI) Report (including Sampling and Data Results, Risk Assessment, and Preliminary Analysis of Alternatives);
- (f) Phase II Remedial Investigation (RI) Work Plan;
- (g) Phase II Remedial Investigation (RI) Report (including Sampling and Data Results, Risk Assessment Addendum, if warranted by the scope of the Remedial Investigation);
- (h) RI/FS Report (including Treatability and Pilot Study(s), Initial Screening of Alternatives, Detailed Analysis of Alternatives, and Risk Assessment Addendum, if warranted by the scope of the Remedial Investigation); and

- (i) Proposed Plan.
- 14.2 The Parties will establish target dates for completion of the following draft Secondary Documents:
- (a) Study Area Screening Evaluation (SASE) Work Plan
 - (b) Initial Screening of Alternatives
 - (c) Detailed Analysis of Alternatives
 - (d) Treatability and Pilot Study Work Plan (if warranted by the Scope of the RI/FS)
 - (e) Treatability and Pilot Study(s) (if warranted by the Scope of the RI/FS)
 - (f) Sampling and Data Results
 - (g) Remedial Action Work Plan
 - (h) Pre-Final Remedial Design (85%)
- 14.3 The Navy shall submit the draft RI/FS Report for each AOC or OU within five hundred forty (540) days after the final RI/FS Work Plan for such AOC or OU becomes effective.
- 14.4 The Navy shall submit a draft Proposed Plan for each AOC or OU within thirty (30) days of submission of a draft final RI/FS.
- 14.5 The Navy shall submit the draft ROD and Responsiveness Summary for each AOC or OU within forty-five (45) days of the conclusion of the public comment period on the Proposed Plan (see Section 7.6(f)(6) above).
- 14.6 The Navy shall begin the Remedial Action for the remedy selected in each ROD within four-hundred and fifty (450) days of the signing of the ROD by the EPA.
- 14.7 Within twenty-one (21) days of issuance of each ROD issued pursuant to this Agreement, the Navy shall propose deadlines for completion of the following draft Primary Documents:
- (a) Remedial Design (RD) Work Plan
 - (b) Sixty percent (60%) Design of Remedial Action (including QA/QC and Contingency Plan)
 - (c) Final Remedial Design (including Remedial Action Work Plan and Final Construction QA/QC Project Plan)

(d) Project Closeout Report

Within fifteen (15) days of receipt, EPA and the State shall review and provide comments to the Navy regarding such proposed Deadlines. Within fifteen (15) days following receipt of comments, the Navy shall, as appropriate, make revisions and reissue the proposal. The Parties shall meet as necessary to discuss and finalize the proposed Deadlines. If the Parties agree on proposed Deadlines, EPA and the State shall issue a Letter of Concurrence with the proposed Deadlines, and the finalized Deadlines shall be incorporated into the Work Plans listed in Sections 14.1 and 14.2. If the Parties fail to agree within thirty (30) days on the proposed Deadlines, the matter shall immediately be submitted for Dispute Resolution pursuant to Section XIII, (Dispute Resolution), of this Agreement. The final Deadlines established pursuant to this Section shall be published by EPA and shall become an Appendix to this Agreement enforceable hereunder. The proposed Deadlines shall be consistent with the Timetables set forth in Sections 14.4 through 14.9.

14.8 Section XXXI, (Identification of Study Areas) shall apply to any Study Area currently identified in Appendix III or identified after the Effective Date of this Agreement.

14.9 For any AOC or OU not identified as of the Effective Date of this Agreement, the Navy shall propose Deadlines for the Primary Documents listed in Sections 14.1, and Target Dates for the Secondary Documents listed in Section 14.2, which conform to CERCLA Section 120, the NCP and EPA CERCLA guidance and policy within twenty-one (21) days after the receipt of approval of any SASE Report (See Section 31.7) which identifies an AOC not previously listed in Appendix III of this Agreement. Within fifteen (15) days of receipt of such proposed Deadlines and Schedules, EPA and the State shall review and provide comments to the Navy regarding such proposed Deadlines. Within fifteen (15) days following receipt of the EPA and State comments, the Navy shall, as appropriate, make revisions and reissue the proposal. The Parties shall meet as necessary to discuss and finalize the proposed Deadlines and Schedules. If the Parties agree on proposed Deadlines and Schedules, EPA and the State shall each issue a Letter of Concurrence with the proposed Deadlines and Schedules, and the finalized Deadlines and Schedules such be incorporated into the Agreement. If the Parties fail to agree within thirty (30) days on the proposed Deadlines, the matter shall immediately be submitted for Dispute Resolution pursuant to Section XIII, (Dispute Resolution) of this Agreement. The final Deadlines and Schedules established pursuant to this Section shall be published by EPA.

14.10 The Timetables set forth in Appendix IV of this Agreement, are the timetables agreed to by the Parties for Primary Documents for SAs, AOCs and OUs as of the Effective Date of the Agreement. The Appendix IV timetables and any Timetables established pursuant to this Section after the Effective Date of this Agreement, may be extended pursuant to Section XV, (Extensions), of this Agreement. The Parties recognize that one possible basis for extension of the deadlines for completion of the RI/FS is the identification of Significant New Site Conditions during the performance of the Remedial Investigation.

XV. EXTENSIONS

15.1 A Timetable, Deadline or Schedule shall be extended by EPA, in consultation with the State, upon receipt of a timely request for Extension of a Timetable, Deadline or Schedule and when good cause for the requested Extension exists. Any request for Extension by the Navy shall be submitted to the other Parties in writing and shall specify:

- (a) The Timetables, Deadlines or Schedules that are sought to be extended;
- (b) The length of the Extension sought;
- (c) The good cause(s) for which the Extension is sought; and
- (d) The extent to which Any related Timetables, Deadlines or Schedules would be affected if the Extension were granted.

15.2 Good cause exists for an Extension when sought in regard to:

- (a) An event of Force Majeure, (Section XVI);
- (b) A delay caused by another Party's failure to meet any requirement of this Agreement;
- (c) A delay caused by the good faith invocation of Dispute Resolution or the initiation of judicial action;
- (d) A delay caused, or which is likely to be caused, by the grant of an Extension in regard to other Timetables, Deadlines or Schedules pursuant to this Agreement; and
- (e) Any other event or series of events mutually agreed to by the Parties as constituting good cause.

- 15.3 Denial of a request for Extension is subject to the Dispute Resolution procedures of Section XIII, (Dispute Resolution) hereof.
- 15.4 Within fifteen (15) days of receipt of a request for an Extension of Timetables, Deadlines or Schedules, EPA, after consultation with the State, shall advise the Navy in writing of their respective positions on the request. Any failure by EPA or the State to respond within the fifteen (15) day period shall be deemed to constitute concurrence in the request for Extension. If EPA or the State does not concur in the requested extension, it shall include in its statement of nonconcurrence an explanation of the basis for its position.
- 15.5 If there is a consensus among the Parties that the requested Extension is warranted, the Navy shall extend the effected Timetables, Deadlines or Schedules accordingly or to a mutually agreed upon alternative. If there is no consensus among the Parties as to whether all or part of the requested Extension is warranted, the Timetables, Deadlines or Schedules shall not be extended except in accordance with the determination resulting from the Dispute Resolution process.
- 15.6 Any Party may invoke Dispute Resolution within fifteen (15) days of receipt of a statement of nonconcurrence with a requested Extension or the right to invoke Dispute Resolution is waived.
- 15.7 A written timely and good faith request by the Navy for an extension shall toll any assessment of stipulated penalties or application for judicial enforcement of the affected Timetable, Deadline or Schedule until a decision is reached on whether the requested extension will be approved. If dispute resolution is invoked and the extension is denied, stipulated penalties may be assessed and may accrue from the date of the original Timetable, Deadline or Schedule. Following the grant of an Extension an assessment of stipulated penalties or an application for judicial enforcement may be sought only to compel compliance with the Timetable and Deadline or Schedule as most recently extended.

XVI. FORCE MAJEURE

- 16.1 A Force Majeure shall mean any event arising from causes beyond the control of the Party that causes a delay in or prevents the performance of any obligation under this Agreement, including but not limited to, acts of God; fire; war; insurrection; civil disturbance; explosion;

unanticipated breakage or accident to machinery, equipment or lines of pipe despite reasonably diligent maintenance; adverse weather conditions that could not be reasonably anticipated; unusual delay in transportation; restraint by court order or order of public authority; inability to obtain, at reasonable cost and after exercise of reasonable diligence, any necessary authorizations, approvals, permits or licenses due to action or inaction of any governmental agency or authority other than the Navy; delays caused by compliance with applicable statutes or regulations governing contracting, procurement or acquisition procedures, despite the exercise of reasonable diligence; and insufficient availability of appropriated funds, if the Navy shall have made a timely request for such funds as part of the budgetary process as set forth in Section XXV, (Funding) of this Agreement. A Force Majeure shall also include any strike or other labor dispute, whether or not within the control of the Parties affected thereby. Force Majeure shall not include increased costs or expenses of Response Actions, whether or not anticipated at the time such Response Actions were initiated.

- 16.2 When circumstances, which are caused by a Force Majeure event, occur which may delay or prevent the completion of the Navy's obligation under this Agreement, the Navy shall notify the EPA and State Project Managers orally of the circumstances within seventy two (72) hours after the Navy first knew of such circumstances. If the EPA Project Manager is unavailable, the Navy shall notify the Director of the Waste Management Division, EPA Region I. The Navy shall supply to EPA and the State in writing an explanation of the cause(s) of any actual or expected delay and the anticipated duration of any delay. The Navy shall exercise best efforts to avoid or minimize any such delay and any effects of a such delay. Failure to give timely notice to the EPA and the State in accordance with this Section shall not constitute a waiver of any claim of Force Majeure with respect to the circumstances in question.

XVII. RECORDS OF DECISION AND PLANS FOR REMEDIAL ACTION

- 17.1 This Section shall apply to selection of CERCLA Remedial Actions and any disputes relating thereto.
- 17.2 As appropriate, for each AOC or OU the Navy shall submit the final RI/FS and draft Proposed Plan to EPA and the State for review within the Timetable detailed in Section XIV, (Deadlines and Schedules), of this Agreement. The Proposed Plan shall contain a statement of the preferred Remedial alternative(s). EPA's and the State's comments shall be addressed by the Navy when preparing the final RI/FS report

and drafting the Proposed Plan. The RI/FS and Proposed Plan shall be issued by the Navy and made available to the public. The Navy will hold a public information meeting to discuss the preferred alternative for each AOC or OU. A public comment period will be announced, and a public hearing will be held by the Navy to receive comments on the RI/FS and Proposed Plan for each AOC or OU. Copies of all written and oral public comments received shall be provided to the Parties. Following public comment the Navy, in consultation with EPA and the State, if appropriate, will modify the FS or Proposed Plan based on the comments received. Subject to Section VII, (Consultation with EPA and the State) and Section XIII, (Dispute Resolution), modifications will be made by the Navy and the modified documents will be reviewed by EPA and the State. Any of the Parties may require additional public comment be solicited if modification to the Proposed Plan substantially change the proposed remedy.

- 17.3 Based on the RI/FS, Proposed Plan and comments received from EPA, the State and the public, the Navy shall draft and submit to EPA and the State, a draft ROD for each AOC or OU in accordance with the Timetable established pursuant to Section XIV, (Deadlines and Schedules) of this Agreement. The draft ROD will include a Responsiveness Summary, in accordance with applicable EPA guidance. EPA and the State shall, within forty-five (45) days of receipt of the Navy's draft Record of Decision, each submit to the Navy either (i) written comments on the draft Record of Decision or (ii) a letter indicating that they will concur in the document. If EPA or the State submits comments on the draft Record of Decision, the Navy shall submit to EPA and the State a written response to each comment, together with a revised draft Record of Decision, within thirty (30) days of receipt of the comments. The Parties shall have thirty (30) days from receipt by EPA and the State of the revised draft Record of Decision to reach agreement on the draft final Record of Decision. If the Parties are unable to reach agreement on the draft final ROD, selection of a Remedial Action shall not be subject to Dispute Resolution. The selection of a Remedial Action shall be made by the EPA Administrator, and EPA shall then prepare and issue a final ROD.
- 17.4 Upon issuance of a ROD for the selected Remedial Action(s) the RI/FS will be deemed completed.
- 17.5 The selection of Remedial Action(s) by the EPA Administrator shall be final and not subject to dispute by the Navy or the State, except as provided for in Section 13.8.

- 17.6 Within twenty-one (21) days of issuance of each ROD, the Navy shall submit all Work Plans, other plans or documents described in the SOW, Remedial Design/Remedial Action (RD/RA) Requirements, in conformance with all Schedules and Timetables therein, and in this Agreement. The Remedial Design Work Plan and Final Remedial Design are Primary documents subject to the review and comment process in Section VII, (Consultation With EPA and the State).
- 17.7 Once the ROD is approved by EPA, the Navy shall implement the Remedial Action(s) in accordance with the requirements Timetables and Schedules determined pursuant to this Agreement. Upon approval by EPA and the State, Timetables, Deadlines, Schedules, proposed Work, and ROD relating to any AOC (or group of AOC, if applicable) or OU required by this Section shall be incorporated into this Agreement and become an enforceable part thereof.

XVIII. PROCEDURES FOR INTERIM REMEDIAL ACTIONS

- 18.1 The Navy shall implement those Interim Remedial Actions (IRA) pursuant to this Agreement necessary to prevent, minimize, or eliminate risks to human health and the environment caused by the release of hazardous substances, pollutants, or contaminants. An Interim Remedial Action (IRA) is identified, proposed and implemented prior to a final remedial action and shall be consistent with the final remedial action taken at the site. An IRA shall, to the greatest extent practicable, attain ARARs and be consistent with and contribute to the efficient performance of a final remedial action(s). An IRA must be protective of human health and the environment, and comply with CERCLA, the NCP, applicable EPA regulations, policy and guidance, and applicable State law.
- 18.2 Upon submission of the draft Phase I RI Report, a Party may propose an IRA(s) for those AOCs/OUs most suitable for an accelerated Remedial Action response. Any Party may request a meeting of the Parties to assist in expediting selection of the IRA.
- 18.3 Once an IRA is agreed upon by the Parties, the Navy shall prepare and submit to EPA and the State for review and comment a Focused Feasibility Study (FFS) which shall include a limited number of proposed Interim Remedial Action alternatives, and to the extent practicable, an assessment of the degree to which these alternatives were analyzed during their development and screening. The FFS shall be a Primary Document and reviewed by the Parties in accordance with Section VII, (Consultation with EPA and State).

- 18.4 Upon finalization of the draft final Focused Feasibility Study in accordance with Section 7.8, the Navy shall prepare and submit a Proposed Interim Remedial Action Plan within thirty (30) days. The Navy shall make the Proposed Interim Remedial Action Plan available for public review and comment in accordance with Section 7.6(f) and 17.2. Adequate information on the proposed action and a limited number of alternatives must also be available to the public along with the proposed plan. Copies of all written and oral public comments received shall be provided to the Parties.
- 18.5 Within sixty (60) days following the close of the comment period the Navy, in consultation with EPA and the State, will modify the FFS or Proposed Interim Remedial Action Plan based on the comments received. Any of the Parties may require an additional public comment period in the event of a substantial difference in the preferred alternative in the Focused Feasibility Study and Proposed Interim Remedial Action Plan.
- 18.6 Based on the FFS, Proposed Interim Remedial Action Plan, and comments received from EPA, the State, and the public, the Navy shall draft and submit to EPA and the State, a draft Interim Remedial Action ROD and Responsiveness Summary in accordance with Section XVII, (Records of Decision and Plans for Remedial Action) and the Timetable established pursuant to Section XIV, (Deadlines and Schedules).
- 18.7 Following approval of the Interim Remedial Action ROD, the Navy shall submit to EPA and the State a final Remedial Action Plan for implementation of the selected Interim Remedial Action, including appropriate Schedules and Timetables. Review, by the EPA and the State, of the selected IRA will continue as the Parties develop the final remedial alternatives for such AOC or OU.

XIX. EPA CERTIFICATION AND TERMINATION OF THE AGREEMENT

- 19.1 When the Navy determines that a Remedial Action at the Site has been completed in accordance with the requirements of this Agreement, it shall so advise EPA in writing, and shall request from EPA certification that the Remedial Action has been completed in accordance with the requirements of this Agreement. The Navy shall schedule and conduct a pre-certification inspection to be attended by the Navy, EPA and the State. Within thirty (30) days of such inspection, the Navy shall submit a Project Closeout Report signed by the Navy's signatory authority or designee certifying that the Remedial Action has been completed in full satisfaction of the requirements of this Agreement. Within ninety (90) days of the receipt of the Closeout Report, EPA, after

opportunity for review and comment by the State, shall advise the Navy in writing that:

- (a) EPA certifies that the Remedial Action has been completed in accordance with this Agreement based on conditions known at the time of certification; or
- (b) EPA denies the Navy request for certification, stating in full the basis of the denial.

An EPA certification under this Section does not affect the Parties' rights reserved in Section XXIII, (Other Claims).

- 19.2 If EPA, after opportunity for review and comment by the State, denies the Navy request for certification that such Remedial Action has been completed in accordance with this Agreement, the Navy may invoke Dispute Resolution to review EPA's determination on certification and/or Additional Work needed. If The EPA fails to respond within ninety (90) days of the Navy's request for certification, such failure shall be treated as a denial of certification subject to Dispute Resolution. If EPA's denial of certification is upheld in Dispute Resolution, EPA may seek to require the Additional Work by the Navy pursuant to the terms of this Agreement. The Navy may resubmit a subsequent request for certification to EPA at anytime.
- 19.3 **Termination of The Agreement.** Following EPA certification of all the Remedial Actions at the Site, pursuant to this Section, the Navy may propose in writing the termination of this Agreement upon showing that the Navy's obligations under this Agreement have been satisfied. The obligations of this Agreement shall be deemed satisfied and terminated upon receipt by the Navy of written notice from EPA, with concurrence of the State, that the Navy has demonstrated that all the terms of the Agreement have been satisfied. EPA and the State shall have ninety (90) days from receipt of a written Navy request for such notice to grant or deny the request for termination of the Agreement. If EPA denies the Navy's request, EPA shall within the same ninety (90) days provide a written statement of the basis of its denial. A denial by EPA or non-concurrence by the State under this Section may be subject to Dispute Resolution.
- 19.4 Upon termination of this Agreement, the Navy shall place a public notice announcing termination in two (2) major local newspapers of general circulation.
- 19.5 This Section shall not affect the Parties obligations pursuant to Section XXXII, (Five Year Review) of this Agreement. In no event, will this Agreement terminate prior to the Navy's completion of the work required by this Agreement.

XX. STATUTORY COMPLIANCE/RCRA-CERCLA INTEGRATION

- 20.1 The Parties intend to integrate the Navy's CERCLA response obligations and RCRA Corrective Action obligations which relate to the release(s) of Hazardous Substances, hazardous wastes, pollutants or contaminants covered by this Agreement into this comprehensive Agreement. Therefore the Parties intend that the activities covered by this Agreement will achieve compliance with CERCLA, 42 U.S.C. § 9601 et seq.; satisfy the corrective action requirements of RCRA §§ 3004(u) and (v), 42 U.S.C. § 6924(u) and (v), for RCRA permit, and § 3008(h), 42 U.S.C. § 6928(h) for interim status facilities; and meet or exceed Federal and State ARARs to the extent required by CERCLA § 121, 42 U.S.C. § 9621, and applicable State law.
- 20.2 Based upon the foregoing, the Parties intend that any Remedial Action selected, implemented and completed under this Agreement shall protect human health, welfare and the environment such that there shall be no further need for Corrective Action under RCRA for remediation of releases covered by the Agreement. The Parties also agree that with respect to releases or threatened releases of Hazardous Substances covered by the Agreement that are associated with the Site, RCRA shall be considered an applicable or relevant and appropriate requirement pursuant to CERCLA § 121. Any release or other hazardous waste activities not covered by this Agreement remain subject to all applicable State and Federal environmental requirements.
- 20.3 The Parties recognize that the requirement to obtain permits for Response Actions undertaken pursuant to this Agreement shall be as provided for in CERCLA and the NCP. The Parties further recognize that any ongoing hazardous waste management activities at NSBNL require the issuance of permits under Federal and State law. This Agreement does not affect the requirement, if any, to obtain such permits. However, if a permit is issued to NSBNL for ongoing hazardous waste management activities at the Site, the EPA and/or the State shall reference and incorporate any appropriate provisions, including appropriate Schedules (and the provision for Extension of such Schedules), of this Agreement into such permit. With respect to those portions of this Agreement incorporated by reference into permits, the Parties intend that judicial review of the incorporated portions shall, to the extent review is authorized by law, only be reviewed under the provisions of CERCLA.

XXI. ENFORCEABILITY

- 21.1 Upon the Effective Date of this Agreement any standard, regulations, condition, requirement or order which has become effective under CERCLA and is incorporated into the Agreement is enforceable by any person pursuant to CERCLA § 310, and any violation of such standard, regulation, condition, requirement or order will be subject to civil penalties under CERCLA §§ 310(c) and 109.
- 21.2 All Timetables and Deadlines associated with any Study Area, RI/FS shall be enforceable by any person pursuant to CERCLA § 310, and any violation of such Timetable and Deadlines will be subject to civil penalties under CERCLA §§ 310(c) and 109.
- 21.3 All terms, conditions, and Schedules of this Agreement which relate to Interim Remedial Actions or final Remedial Actions, including corresponding Timetables, Deadlines or Schedules, and all Work associated with the interim or final Remedial Actions, shall be enforceable by any person pursuant to CERCLA § 310(c), and any violation of such terms or conditions will be subject to civil penalties under CERCLA §§ 310(c) and 109.
- 21.4 Any final resolution of a dispute pursuant to Section XIII, (Dispute Resolution), of this Agreement which establishes a term, condition, Timetable, Deadline or Schedule shall be enforceable by any person pursuant to CERCLA § 310(c), and any violation of such term, condition, Timetable, Deadline or Schedule will be subject to civil penalties under CERCLA §§ 310(c) and 109.
- 21.5 Nothing in this Agreement shall be construed as authorizing any person to seek judicial review of any action or Work where review is barred by any provision of CERCLA, including CERCLA § 113(h).
- 21.6 Nothing in this Agreement shall be construed as a restriction or waiver of any rights EPA or the State may have under CERCLA, including but not limited to any rights under CERCLA §§ 113 and 310, 42 U.S.C. §§ 9613 and 9659. The Navy does not waive any rights it may have under CERCLA § 120, SARA § 211 and Executive Order 12580.
- 21.7 The Parties agree to exhaust their rights under Section XIII, (Dispute Resolution), prior to exercising any rights to judicial review that they may have.
- 21.8 The Parties agree that all Parties shall have the right to enforce the terms of this Agreement.

XXII. STIPULATED PENALTIES

- 22.1 In the event that the Navy fails to submit a Primary document set forth in this Agreement to EPA and the State pursuant to the appropriate Schedules, Timetable or Deadlines in accordance with the requirements of this Agreement, or fails to comply with a term or condition of this Agreement, which relates to an Interim Remedial Action, Operable Unit or final Remedial Action, EPA may assess a stipulated penalty against the Navy. The Navy agrees that to the extent funds are appropriated for such penalties it shall pay all assessed stipulated penalties not rescinded through Dispute Resolution. The State may recommend to EPA that a stipulated penalty be assessed. If EPA does not notify the Navy that a violation has occurred within thirty (30) days of the State's recommendation, the State may refer the matter to Dispute Resolution. A stipulated penalty may be assessed for violations which are described in this Section. Penalties shall be in an amount not to exceed \$5,000 for the first week (days 1 through 7) (or part thereof), and \$10,000 for each additional week (or part thereof for which a failure set forth in this Section occurs.
- 22.2 Upon determining that the Navy has violated the Agreement as described in Section 22.1, EPA shall so notify the Navy in writing. If the violation in question is not already subject to Dispute Resolution at the time such notice is received, the Navy shall have fifteen (15) days after receipt of the notice to invoke Dispute Resolution on the question of whether the violation did in fact occur. The Navy shall not be liable for the stipulated penalty assessed by the EPA if the violation is determined, through the Dispute Resolution process, not to have occurred. No assessment of a stipulated penalty shall be final until the conclusion of Dispute Resolution procedures related to the assessment of the stipulated penalty.
- 22.3 The annual reports required by CERCLA § 120(e)(5), 42 U.S.C. § 9620(e)(5), shall include, with respect to each final assessment of a stipulated penalty against the Navy under this Agreement, each of the following:
- (a) The facility responsible for the failure;
 - (b) A statement of the facts and circumstances giving rise to the failure;
 - (c) A statement of any administrative or other corrective action taken at the Facility or a statement of why such measures were determined to be inappropriate;

(d) A statement of any additional action taken by or taken at the facility to prevent recurrence of the same type of failure; and

(e) The total dollar amount of the stipulated penalty assessed for the particular failure.

22.4 Stipulated penalties assessed pursuant to Section 22.1 shall be payable only in the manner and to the extent expressly provided for in Acts authorizing funds for, and appropriations to, the DOD. The Parties agree to amend this Section 22.4 to reflect any future change in the law and/or DOD policy which allows payment of stipulated penalties to both EPA and the State. Such amendment shall provide that the Navy shall pay stipulated penalties assessed pursuant to the Section 22.1 to EPA and the State in the following manner: the Navy shall pay each to EPA and the State fifty percent (50%) of any penalty assessed pursuant to Section 22.1.

22.5 In no event shall this Section give rise to a stipulated penalty in excess of the amount set forth in CERCLA § 109, 42 U.S.C. § 9609.

22.6 This Section shall not affect the Navy's ability to obtain an Extension of a Timetable, Deadline or Schedule pursuant to Section XV, (Extensions) of this Agreement.

22.7 Nothing in this Agreement shall be construed to render any officer or employee of the Navy personally liable for the payment of any stipulated penalty assessed pursuant to this Section.

XXIII. OTHER CLAIMS

23.1 Subject to the limitations set forth in Section XX, (Statutory Compliance/RCRA-CERCLA Integration), nothing in this Agreement shall restrict the Parties from taking any action under CERCLA, or other Federal or State statutes including, but not limited to, enforcement actions pertaining to Connecticut Hazardous Waste Management Regulations, §§ 22a-449(c)-100 through 110, and § 22a-449(c)-11 of the Regulations of Connecticut State Agencies for any matter not specifically part of the Work performed under CERCLA which is the subject matter of this Agreement.

23.2 Nothing in this Agreement shall constitute or be construed as a bar or a release or a discharge from any claim, cause of action or demand in law or equity against any person, firm, partnership, agent or corporation or any municipality, county, not a Party to this Agreement for any liability it

may have arising out of or relating to the generation, storage, treatment, handling, transportation, release, or disposal of any Hazardous Substances, hazardous wastes, pollutants or contaminants found at, taken to, taken from, or emanating from the Site.

23.3 This Agreement does not constitute any decision or pre-authorization by EPA of funds under § 111(a)(2) of CERCLA, 42 U.S.C. § 9611(a) for any person, agent, contractor or consultant acting for the Navy.

23.4 This Agreement does not bar any claim for:

- (a) natural resources damage assessments, or for damage to natural resources;
- (b) claims by EPA and the State based on a failure or refusal by the Navy to meet a requirement of the Agreement; and
- (c) liability for the disposal of any Hazardous Substances or waste material taken from the Site;
- (d) relief or penalties for noncompliance with the Connecticut Hazardous Waste Management Regulations, §§ 22a-449(c)-100 through 110, and § 22a-449(c)-11 of the Regulations of Connecticut State Agencies, and Chapters 445, 446C and 446k of the Connecticut General Statutes, as amended, except to the extent that such claim is for remedial actions covered by this Agreement.

In the event that EPA or the State of Connecticut seeks such remedies, the Navy reserves the right to raise or assert any defense, whether procedural or substantive, in law or equity, or to raise any issue of jurisdiction or standing of any Party, or any other matter in any relevant proceeding.

XXIV. PRESERVATION OF RECORDS

24.1 Despite any document retention policy to the contrary, the Parties shall preserve, during the pendency of this Agreement and for a minimum of ten (10) years after its termination, all records and documents contained in the Administrative Record and any additional records and documents which support, or document the actions carried out pursuant to this Agreement. After this ten (10) year period, each Party shall notify the other Parties at least forty-five (45) days prior to destruction of any such documents. Upon request by any Party, the requested Party shall make available such records or copies of any such records, unless withholding is authorized and determined

appropriate by the Freedom of Information Act, 5 U.S.C. § 552, or the Privacy Act, 5 U.S.C. § 552a, with respect to materials held by the Federal Government, or Conn. Gen. Stat. § 1-19, § 22a-6(a)(5) and § 22a-424 with respect to materials held by the State of Connecticut.

XXV. FUNDING

- 25.1 The Parties to this Agreement expect that all obligations of the Navy arising under this Agreement will be fully funded. The Navy agrees to use its best efforts to seek sufficient funding through the Department of Defense (DOD) budgetary process, to fulfill its obligations under this Agreement. Penalties shall not be imposed for noncompliance due to insufficient funding. Notwithstanding any other provision of the Agreement, in the event that the Navy is granted an extension under Section XV, (Extensions), of this Agreement based upon insufficient availability of funds or in the event the Navy's work obligations under this Agreement are not fulfilled for six (6) consecutive months due to insufficient availability of funds, whichever occurs first, the State may terminate all provisions of the Agreement affecting the State's rights and responsibilities upon providing ten (10) days notice of its intent to terminate to the other Parties.
- 25.2 In accordance with CERCLA § 120(e)(5)(B), 42 U.S.C. § 9620(e)(5)(B), the Navy shall include in its annual report to DOD the specific cost estimates and budgetary proposals associated with the implementation of this Agreement.
- 25.3 Any requirement for the payment or obligation of funds, including stipulated penalties, by the Navy established by the terms of this Agreement shall be subject to the availability of appropriated funds, and no provision herein shall be interpreted to require obligation or payment of funds in violation of the Anti-Deficiency Act, 31 U.S.C. § 1341. In cases where payment or obligation of funds would constitute a violation of the Anti-Deficiency Act, the dates established requiring the payment or obligation of such funds shall be appropriately adjusted.
- 25.4 If appropriated funds are not available to fulfill the Navy's obligations under this Agreement, EPA and the State reserve the right to initiate an action against any other person, or to take any Response Action, which would be appropriate absent this Agreement. If appropriated funds are not available to fulfill the Navy's obligations under this Agreement, and if the State terminates its status as a Party to the Agreement in accordance with Section 25.1, the

State and the Navy agree that in any action by the State against the Navy to enforce any provision of this Agreement, the Navy may raise as a defense that its failure or delay to perform was caused by the unavailability of appropriated funds. The State disagrees that the lack of appropriations or funding is a valid defense. The State, however, recognizes that the Navy's obligations under this Agreement are subject to the provisions of the Anti-Deficiency Act, 31 U.S.C. § 1341.

- 25.5 Funds authorized and appropriated annually by Congress in the "Environmental Restoration, Defense" appropriation in the Department of Defense Appropriation Act and allocated by the DASD(E) to the Navy will be the source of funds for activities required by this Agreement for the Navy consistent with SARA § 211, 10 U.S.C. § 2701 et seq. However, should the "Environmental Restoration, Defense" appropriation be inadequate in any year to meet the total Navy CERCLA implementation requirements, the DOD shall employ and the Navy shall follow the standardized DOD-EPA developed prioritization process which allocates that years's appropriations in a manner which maximizes the protection of human health and the environment.

XXVI. COMMUNITY RELATIONS

- 26.1 The Parties agree that this Agreement and all Remedial Actions arising thereunder shall comply with all the administrative record and public participation requirements of CERCLA, including §§ 113(k) and 117, 42 U.S.C. §§ 9613(k) and 9617, and the NCP. The Parties also agree to comply with all relevant EPA policy and guidance on community relations programs and public participation requirements which are in accordance with CERCLA and consistent with the NCP and other applicable, relevant and appropriate requirements, laws and regulations.
- 26.2 The Navy has developed and is in the process of implementing a Community Relations Plan in accordance with CERCLA, the NCP and EPA policy and guidance. One purpose of this plan will be to respond to the need for an interactive relationship with all interested community elements, both on the NSBNL and off regarding environmental activities conducted by the Navy pursuant to this Agreement. Any revision or amendment of the CRP shall be subject to the Dispute Resolution provisions of Section XIII, (Dispute Resolution). A copy of the Community Relations Plan is available for review at the Information Repositories established for NSBNL.

- 26.3 Except in case of an emergency requiring the release of necessary information and except in the case of an enforcement action, any Party issuing a press release with reference to any of the Work required by this Agreement shall to the maximum extent practicable, advise the other Party of such press release and the contents thereof, at least three (3) days prior to the issuance of such release.
- 26.4 Community relations activities, as outlined in the Community Relations Plan, will be implemented by the Navy for the selection of Response Actions for AOCs or OUs.
- 26.5 The Navy shall establish and maintain an Administrative Record at or near the Site available to the public, and another copy at a central location, in accordance with CERCLA § 113(k), 42 U.S.C. § 9613. The Administrative Record developed by the Navy shall be regularly updated and a copy of the Index will be provided to EPA and the State.
- 26.6 Pursuant to 10 U.S.C. Section 2705(c), the Navy has established a Technical Review Committee (TRC) for NSBNL. The purpose of the TRC is to afford a forum for cooperation between the Parties and local community representation, on actions and proposed actions at the Site.

XXVII. PUBLIC COMMENT ON THIS AGREEMENT

- 27.1 Within 15 days after the date the Administrator of U.S. EPA executes this Agreement, EPA shall announce the availability of this Agreement to the public for a 45 day period to review and comment, including publication in at least two (2) major local newspapers of general circulation. Comments received shall be transmitted within fourteen days (14) of the close of the comment period to the other Parties. The Parties shall review such comments and shall jointly determine within thirty (30) days of receipt whether or not modifications to the Agreement should be made.
- 27.2 If the Parties agree that the Agreement shall be made effective without any modifications, and if the Parties agree on a Responsiveness Summary, EPA shall notify the Navy and the State in writing that the Agreement is effective as of the date of the notification.
- 27.3 If the Parties agree that modifications are needed, they shall modify the Agreement by mutual consent within sixty (60) days after the expiration of the public comment period. EPA and the State, in consultation with the Navy, shall determine whether the modified Agreement requires additional public notice and comment pursuant to CERCLA. If EPA and the State determine that no additional notice and comment are

required and if the Parties agree on the responsiveness summary, EPA shall notify both Parties in writing that the modified Agreement is effective as of the date of the notification. If the Parties amend the Agreement within the sixty (60) day period and EPA determines that the modifications require additional public notice and comment, such additional notice and comment shall be provided consistent with Section 27.1 above. If the Parties agree, after such additional notice and comment that the Agreement does not require any further modification, and if the Parties agree on a Responsiveness Summary, EPA shall notify both Parties that the Agreement is effective as of the date of the notification.

27.4 In the event that the Parties cannot agree on the modifications or on the responsiveness summary within the time period listed in Section 27.3 the Parties agree to have at least one meeting to attempt to reach agreement. The Parties agree to take best efforts to come to the meeting with a range of alternative positions approved by their respective headquarters in an attempt to reach agreement. The parties agree to negotiate in good faith for at least a thirty (30) day period before invoking the dispute resolution provision of Section 27.5.

27.5 If, sixty (60) days after the expiration of the thirty (30) day period described in Section 27.4, the Parties have not reached an agreement on:

- (a) whether modifications to the Agreement are needed;
- (b) what modifications to the Agreement are required;
- (c) any language, provisions, Timetables, Work to be performed or contents of the Agreement or any attachments to the Agreement;
- (d) whether additional public notice and comments are required; or
- (e) the contents of the responsiveness summary.

then the matters which are in dispute shall be resolved by the Dispute Resolution procedures of Section XIII, (Dispute Resolution). For the purpose of this Section, the Agreement shall not be effective while the Dispute Resolution proceedings are underway. The Parties reserve the right to withdraw from the Agreement by providing written notice to the other Party within twenty (20) days after receiving the final notice of the resolution of the matters in dispute. Failure by a Party to provide such a written notice of withdrawal within this twenty (20) day period shall act as a

waiver of the right of the Party to withdraw from the Agreement. If no Party withdraws from the Agreement within this twenty (20) day period, EPA shall thereafter send a copy of the final Agreement to the Navy and the State and shall notify both Parties that the Agreement is effective. The Effective Date of the Agreement shall then be the date of notification from EPA to the Navy.

- 27.6 At the start of the public comment period, the Navy will transmit copies of this Agreement to the appropriate Federal Natural Resource Trustees for review and comment within time limits set forth in this Section.

XXVIII. AMENDMENT OR MODIFICATION OF AGREEMENT

- 28.1 Except as provided in Section 8.4 (regarding minor field modifications) this Agreement can be amended or modified solely upon written consent of the Parties. Such amendments or modifications shall become effective on the third business day following the date on which EPA signs the amendments or modifications. Upon such signing, EPA shall notify the other Parties. The Parties may agree to a different Effective Date.
- 28.2 A Party which proposes an amendment of this Agreement shall propose such amendment in writing and distribute such amendment for the signature of the other Parties.
- 28.3 Any amendment or modification to this Agreement relating to a Remedial Action which the parties mutually agree will not significantly effect authority or obligations established under this Agreement shall be published in two (2) major local newspapers of general circulation. Any amendments or modifications to this Agreement which the parties mutually agree will significantly effect authority or obligations established under this agreement, shall be published in two (2) major local newspapers of general circulation and the public shall be given an opportunity to comment in a manner consistent with Section XXVII, (Public Comment on this Agreement), of this Agreement. In the event the parties cannot mutually agree, the amendments or modifications shall be published in two (2) major local newspapers of general circulation and the public shall be given an opportunity to comment in a manner consistent with Section XXVII, (Public Comment on this Agreement) of this Agreement.

XXIX. EFFECTIVE DATE

- 29.1 This Agreement shall become effective in accordance with Section XXVII, (Public Comment On this Agreement).

29.2 Any Timetable, Deadline, Schedule, or ROD required by this Agreement is effective upon finalization pursuant to Section VII, (Consultation with EPA and the State) hereof, and incorporation into this Agreement.

XXX. NOTICES AND SUBMISSIONS

30.1 Whenever, under the terms of this Agreement, written notice is required to be given or a report or other document is required to be sent by one Party to another, it shall be directed to the Parties' Project Managers at the addresses specified below, unless those individuals or their successors give written notice of a change to the other Parties. Written notice as specified herein shall constitute complete satisfaction of any written notice requirement of the Agreement with respect to the EPA, the Navy, and the State.

For the EPA:

Kymerlee Keckler
US EPA/Region I
JFK Federal Building (HAN-CAN 1)
Boston, MA 02203
(617) 573-5777

For the State:

Christine Lacas
Bureau of Water Management
Permitting, Enforcement and Remediation Division
Connecticut Department of Environmental Protection
79 Elm Street (PERD-18-20)
Hartford, CT 06106
(203) 424-3766

For the Navy:

Mark Evans
Environmental Restoration Branch
Naval Facilities Engineering Command
10 Industrial Way (Mail Stop 82)
Lester, PA 19113-2090
(215) 595-0567

XXXI. IDENTIFICATION OF STUDY AREAS

- 31.1 Any area on the Site which is identified by a Party pursuant to the procedures described in this Section as a Study Area after the Effective Date of this Agreement shall be added to the list of Study Areas and AOC found in Appendix III as an additional Study Area to be investigated and remediated pursuant to the requirements of this Agreement. Notice to the public of all Study Areas that become an Area of Contamination identified by the Parties after the Effective Date of this Agreement shall be provided pursuant to Section 28.3 of this Agreement.
- 31.2 When a Party to this Agreement determines that an area on the Site may be a threat, or potential threat, to human health or the environment, such Party shall notify the other Parties of such determination. Notification of the other Parties under this Section shall at a minimum include; the location of such area on the Site and the reason(s) the Party believes such area poses a threat, or potential threat, to human health or the environment.
- 31.3 The Parties shall have thirty (30) days from the date of receipt of notification pursuant to Section 31.2 to agree whether such area shall be addressed under this Agreement as a Study Area. If an agreement on whether to address such area under the Agreement cannot be reached within thirty days, the dispute shall be immediately brought to the DRC (Section 13.4) for resolution.
- 31.4 The Navy, upon agreement of all the Parties, or upon determination by the DRC that an area is added to this Agreement as a Study Area, shall perform a Study Area Screening Evaluation (SASE) as described in Section 31.5 of this Agreement.
- 31.5 Study Area Screening Evaluations. A Study Area Screening Evaluation (SASE) shall be conducted for those Study Areas identified pursuant to Section 31.2 of this Agreement. An SASE shall be conducted to determine whether the Study Area is a threat to human health and the environment in accordance with CERCLA and the NCP.
- 31.6 Submittal of SASE Work Plan(s). The Navy shall submit to EPA and the State a SASE Work Plan which shall outline the activities necessary to confirm either the existence or absence of a threat, or potential threat, to human health and the environment. The SASE Work Plan shall be a Secondary Document and shall be reviewed by the Parties in accordance with Section VII of this Agreement. The Navy shall submit a timetable for the completion of SASE Work Plans for those Study Areas identified in Appendix III

within ninety (90) days of the Effective Date of this Agreement or pursuant to a determination in accordance with Section 31.4. The SASE Work Plan shall include a proposed schedule for the submittal of a SASE Report. Within fifteen (15) days of receipt, EPA and the State shall review and provide comments to the Navy regarding such proposed timetables. Within fifteen (15) days following receipt of comments, the Navy shall, as appropriate, make revisions and reissue the proposal. The Parties shall meet as necessary to discuss and finalize the proposed timetables. If the Parties agree on proposed timetables, EPA and the State shall each issue a Letter of Concurrence with the proposed Timetables, and the finalized Timetables shall be incorporated into the appropriate documents listed in Sections 14.1 and 14.2. If the Parties fail to agree within thirty (30) days on the proposed Timetables, the matter shall immediately be submitted for Dispute Resolution pursuant to Section XIII, (Dispute Resolution) of this Agreement. The final Timetables established pursuant to this Section shall be published by EPA and shall become an Appendix to this Agreement.

31.7 Submittal of SASE Report(s). Upon conclusion of an SASE, the Navy shall submit to EPA and the State a draft SASE Report which shall provide the basis for a determination that either: i) an RI/FS be performed on the area addressed by the SASE or, ii) the area does not pose a threat, or potential threat, to human health or the environment and therefore the area should be removed from further study under this Agreement. The SASE Report shall be a Primary Document and shall be reviewed by the Parties in accordance with Section VII of this Agreement.

31.8 If it is determined upon completion of the SASE for Study Area K that releases from any of Tanks OT-1 through OT-9 consist solely of petroleum product, substances that are not CERCLA hazardous substances, or which are not commingled with CERCLA hazardous substances(s), such releases and/or tanks will be removed from further study under this Agreement pursuant to Section 31.7. If, on the other hand, it is determined that a release of petroleum product from tanks OT-1 through OT-9 is commingled with CERCLA hazardous substances, the entire release from any such tank(s) shall be subject to the CERCLA response authority and the terms of this Agreement.

Section 31.7 notwithstanding, the decision to remove a release and/or tank from Study Area K shall be based solely on whether the release consists of CERCLA hazardous substances or is commingled with CERCLA hazardous substances. Upon completion of the draft SASE report for Study Area K or any portion of Study Area K, the Navy shall

propose, based solely on whether the release consists of or is commingled with CERCLA hazardous substance, whether to delete from this Agreement any such tank or release. The draft SASE report shall be considered a primary document and shall be reviewed in accordance with the procedures contained in Section VII of this Agreement.

Removal of any release or underground storage tank from this Agreement shall not relieve the Navy from any obligation to comply with any applicable State laws or regulations regarding such releases or tanks.

- 31.9 For any AOC or OU not identified as of the Effective Date of this Agreement, the Navy shall propose Deadlines for all documents listed in Section 14.1 and target dates for the submittal of the documents listed in Section 14.2 for each such AOC or OU, in accordance with Section 14.9.

XXXII. FIVE YEAR REVIEW

- 32.1 Consistent with 42 U.S.C. § 9621(c) and in accordance with this Agreement, if a selected Remedial Action results in any Hazardous Substance, pollutants or contaminants remaining at the Site, the Parties shall review each such Remedial Action at least every five (5) years after the initiation of the selected final Remedial Action at the Site to assure that human health and the environment are being protected by the Remedial Action which is being implemented.
- 32.2 If, upon such review, it is the conclusion of the EPA that Additional Work for any Remedial Action is appropriate at the Site in accordance with 42 U.S.C. §§ 9604 or 9606, the Navy shall implement such Additional Work pursuant to the terms of this Agreement.
- 32.3 Any dispute by the Parties regarding the need for or the scope of Additional Work to a Remedial Action shall be resolved under Section XIII, (Dispute Resolution), of this Agreement and enforceable hereunder.
- 32.4 The EPA reserves the right to exercise any available authority to seek the performance of Additional Work that arises from a Five Year Review, pursuant to applicable law.

XXXIII. RESERVATION OF RIGHTS FOR RECOVERY OF EXPENSES

- 33.1 The Parties agree to amend this Agreement at a later date in accordance with any subsequent national resolution of the issue of EPA cost reimbursement. Pending such resolution, EPA reserves any rights it may have with respect to cost reimbursement.

XXXIV. RECOVERY OF STATE OVERSIGHT COSTS

- 34.1 The Navy agrees to request funding and reimburse the State, subject to the conditions and limitations set forth in this Section, and subject to Section XXV, Funding, for all reasonable costs it incurs in providing services in direct support of the Navy's environmental restoration activities pursuant to this Agreement at the Site.
- 34.2 Reimbursable expenses shall consist only of actual expenditures required to be made and actually made by the State in providing the following assistance to the Navy regarding NSBNL.
- (a) Timely technical review and substantive comment on reports or studies which the Navy prepares in support of its response actions and submits to the State.
 - (b) Identification and explanation of State requirements in performing response actions, especially State applicable or relevant and appropriate requirements (ARARs).
 - (c) Field visits to ensure investigations and cleanup activities are implemented in accordance with appropriate State requirements, or in accordance with agreed upon conditions between the State and the Navy that are established in the framework of the Agreement.
 - (d) Support and assistance to the Navy in the conduct of public participation activities in accordance with federal and State requirements for public involvement.
 - (e) Participation in the review and comment functions of Navy Technical Review Committees.
 - (f) Other services specified in this Agreement.
- 34.3 Within ninety (90) days after the end of each quarter of the Federal fiscal year, the State shall submit to the Navy an accounting of all State costs actually incurred during that quarter in providing direct support services under this section. Such accounting shall be accompanied by cost summaries and be supported by documentation which meets federal auditing requirements. The summaries will set forth employee-hours and other expenses by major type of support service. All costs submitted must be for work directly related to implementation of the Agreement and not inconsistent with either the National Contingency Plan (NCP)

or the requirements described in OMB Circulars A-87 (Cost Principles for State and Local Governments), A-128 (Audits for State and Local Cognitive agreement with State and Local Government), and Standard Forms 424 and 270. The Navy has the right to audit cost reports used by the State to develop cost summaries. Prior to the beginning of each fiscal year, the State shall supply a budget estimate of what it plans to do in the next year in the same level of detail as the billing documents.

- 34.4 Except as allowed pursuant to Sections 34.5 & 34.6 below, within ninety (90) days of receipt of the accounting provided pursuant to the Section 34.3 above, the Navy shall reimburse the State in the amount set forth in the accounting.
- 34.5 In the event the Navy disputes any of the costs set forth in the accounting provided pursuant to the Section 34.3, such disputes shall be resolved through a bilateral dispute resolution process set forth as Section 34.9 below.
- 34.6 The Navy shall not be responsible for reimbursing the State for any costs actually incurred in the implementation of this Agreement in excess of one percent (1%) of the Navy total lifetime project costs incurred through construction of the remedial action(s). This total reimbursement limit is currently estimated to be a sum of \$283,570 over the life of the Agreement. Circumstances could arise whereby fluctuations in the Navy estimates or actual final costs through the construction of the final remedial action creates a situation where the State receives reimbursement in excess of one percent of these costs. Under these circumstances, the State remains entitled to payment for services rendered prior to the completion of a new estimate if the services are within the ceiling applicable under the previous estimate.
- (a) Funding of support services must be constrained so as to avoid unnecessary diversion of the limited Defense Environmental Restoration account funds available for the overall cleanup, and
 - (b) Support services should not be disproportionate to overall project costs and budget.
- 34.7 Either the Navy or the State may request, on the basis of significant upward or downward revisions in the Navy's estimate of its total lifetime costs through construction used in Section 34.6 above, a renegotiation of the cap. Failing an agreement, either the Navy or the State may initiate dispute resolution in accordance with Section 34.9 below.

34.8 The State agrees to seek reimbursement for its expenses solely through the mechanism established in this Section, and reimbursement provided under this Section shall be in settlement of any claims for State response costs relative to the Navy's environmental restoration activities at the Site.

34.9 Section XIII, (Dispute Resolution), notwithstanding, this Subsection shall govern any dispute between the Navy and the State regarding the application of this Section or any matter controlled by this Section including, but not limited to, allowability of expenses and limits on reimbursement. While it is the intent of the Navy and the State that these procedures shall govern resolution of disputes concerning State reimbursement, informal dispute resolution is encouraged.

- (a) The Navy and State Project managers shall be the initial points of contact for coordination of dispute resolution under this Section.
- (b) If the Navy and State Project Managers are unable to resolve a dispute, the matter shall be referred to the Commanding Officer (CO) at NORTHNAVFACENCOM, or his designated representative, and the Division Director, Site Remediation Division, DEP, as soon as practicable, but in any event within (5) working days after the dispute is elevated by the Project Managers.
- (c) If the CO NORTHNAVFACENCOM and the Site Remediation Division Director are unable to resolve the dispute within ten (10) working days, the matter shall be elevated to the Commissioner, DEP, and the Assistant Secretary of the Navy for Installations and Environment.
- (d) In the event the Commissioner and the Assistant Secretary of the Navy are unable to resolve a dispute, the State retains any legal and equitable remedies it may have to recover its expenses, and in addition, the State may withdraw from this Agreement by giving sixty (60) days notice to the other Parties.

34.10 Nothing herein shall be construed to limit the ability of the Navy to contract with the State for technical services that could otherwise be provided by a private contractor, including, but not limited to:

- (a) Identification, investigation, and cleanup of any contamination beyond the boundaries of NSB New London;
- (b) Laboratory analysis; or

(c) Data collection for field studies

34.11 Nothing in this Agreement shall be construed to constitute a waiver of any claims by the State for any expenses incurred prior to the effective date of this Agreement.

34.12 The Navy and the State agree that the terms and conditions of this Section shall become null and void if the State enters into a Defense/State Memorandum of Agreement (DSMOA) with the Department of Defense (DOD) which addresses State reimbursement.

XXXV. QUALITY ASSURANCE

35.1 In order to provide Quality Assurance and maintain Quality Control regarding all field Work and sample collection performed pursuant to this Agreement, the Navy agrees to follow all EPA guidance, criteria and policy in regards to Quality Assurance and Quality Control (QA/QC).

XXXVI. RELEASE OF RECORDS

36.1 The Parties may request of one another access to or a copy of any record or document relating to this Agreement. If the Party that is the subject of the request (the originating Party) has the record or document, that Party shall provide access to or a copy of the record or document, provided, however, that no access to or copies of records or documents need be provided if the record or document is subject to claims of attorney-client privilege, attorney work product, deliberative process, enforcement confidentiality, or properly classified for national security under law or executive order, if applicable.

36.2 Records or documents identified by the originating Party as confidential pursuant to the non-disclosure provisions of the Freedom of Information Act, 5 U.S.C. § 552 or pursuant to CERCLA § 9604 (e)(7), shall be released to the requesting Party, provided the requesting Party states in writing that the document is necessary to carry out a function relating to this Agreement and that the requesting Party will not release the record or document to the public without prior approval of the originating Party. Records or documents which are provided to the requesting Party and which are not identified as confidential may be made available to the public without further notice to the originating Party or pursuant to procedures available under the applicable law or regulation.

- 36.3 The Parties will not assert one of the exceptions in Section 36.2 above, including any available under the Freedom of Information Act even if applicable, in the absence of any governmental interest in withholding the information.
- 36.4 Subject to CERCLA § 120 (j)(2), 42 U.S.C. § 9620 (j)(2), any documents required to be provided by Section VII, (Consultation with EPA and the State), and analytical data showing test results will always be releasable in final draft form and no exemption shall be asserted by any party.
- 36.5 A determination to withhold a document for one of the reasons specified above shall not be subject to Section XIII, (Dispute Resolution). Any Party objecting to another Party's determination may pursue the objection through the determining party's appeal procedures and judicial review, if applicable.
- 36.6 This Section does not affect any requirement pertaining to press releases contained in Section XXVI (Community Relations) of this Agreement.

XXXVII. TRANSFER OF REAL PROPERTY

- 37.1 The Navy shall not enter into an agreement to sell or otherwise transfer real property comprising an Area of Contamination (including any Areas of Contamination added pursuant to this Agreement after its Effective Date) until the Navy has completed all Remedial Actions and Operation and Maintenance for such Area of Contamination as required by this Agreement unless the Navy has complied with the provisions of CERCLA § 120(h), 42 U.S.C. § 9620(h). The Navy shall give EPA and the State at least sixty (60) days written notice prior to such transfer.
- 37.2 The Navy may sell or transfer real property or an interest comprising the NSBNL which does not include an Area of Contamination, provided:
- (a) such sale or transfer is completed in accordance with CERCLA § 120(h);
 - (b) the Navy ensures that the sale or transfer of such property does not effect the Parties rights of access contained in Section IX, (Access) in order to effectuate the purposes of this Agreement in connection with any Area of Contamination under this Agreement, including where such transferred property itself becomes an Area of Contamination after the date of such transfer;

- (c) the Navy gives EPA and the State at least sixty (60) days written notice prior to such sale or transfer, together with a summary of the terms of such sale or transfer which shall include: the name of the transferee(s); the type of transfer document; if applicable, the duration of the transfer; the description and location of the property to be sold or transferred; and, the provisions that ensure the Parties continued access to the Site. The Navy shall provide to EPA and the State a signed copy of any agreement of such sale or transfer.

XXXVIII. BASE CLOSURE

38.1 Unless superseded by a subsequent act of Congress, the Navy's closure of NSBNL will not affect the Navy's obligation to comply with the terms of this Agreement and to specifically ensure the following:

- (a) Availability of a Project Manager to fulfill the terms and conditions of this Agreement;
- (b) Designation of DRC and SEC members as appropriate for the purposes of implementing Section XIII Dispute Resolution; and
- (c) Adequate resolution pursuant to this Agreement of any other problems identified by the Project Managers regarding the effect of base closure on the implementation of this Agreement.

38.2 Base closure will not constitute a Force Majeure under Section XVI, (Force Majeure) nor will it automatically constitute good cause for extensions under Section XV, (Extensions), unless otherwise mutually agreed to by the Parties.

XXXIX. STATE RESERVATION OF RIGHTS

39.1 Notwithstanding any other Section of this Agreement, the State shall retain any statutory right it may have to obtain judicial review of any final decision of EPA on selection of Remedial Action(s) including, without limitation, any authority the State may have under CERCLA, as it may from time to time be amended, including without limitation Sections 113, 121(e)(2), 121(f), and 310, 42 U.S.C. Sections 9613, 9621(e)(2), 9621(f), and 9659. In addition, the State shall retain any right it may have under the Connecticut Hazardous Waste Management Regulations, §§ 22a-449(c)-100 through 110 and § 22a-449(c)-11 of the Regulations of

Connecticut State Agencies, Chapters 445 and 446C and K as amended, except to the extent that such rights are for remedial actions covered by this Agreement. Nothing in this Agreement shall preclude the State from exercising any administrative, legal, or equitable remedies available to the State to require additional response actions by the Navy in the event that:

- (1) (a) conditions previously unknown or undetected by EPA or the State arise or are discovered at this Site;
or
- (b) State receives additional information not previously available concerning the premises which they employed in reaching this Agreement;
- (2) (a) the implementation of the requirements of this Agreement are no longer protective of human health and the environment.

Furthermore, the State reserves any rights it may have at present or subsequent to the date of this Agreement to enforce state laws concerning removal and remedial actions under CERCLA, including any additional rights which may be provided to the State by future amendments to CERCLA, except that the State expressly agrees to exhaust any applicable remedies provided in Section VII, (Consultation with EPA and the State) and Section XIII, (Dispute Resolution) of this Agreement, prior to exercising any such rights.

- 39.2 Notwithstanding any other provision of the Agreement, in the event that the Navy is granted an extension under Section XV, (Extensions) of this Agreement based upon insufficient availability of funds or in the event the Navy's work obligations under this Agreement are not fulfilled for six (6) consecutive months due to insufficient availability of funds, whichever occurs first, the State may terminate all provisions of the Agreement affecting the State's rights and responsibilities upon providing ten (10) days notice of its intent to terminate to the other Parties.

XXXL. EXEMPTIONS

- 40.1 The obligation of the Navy to comply with the provisions of this Agreement may be relieved by a Presidential order or exemption issued pursuant to the provisions of CERCLA § 120(j)(1), or the order of an appropriate court.
- 40.2 The State reserves any statutory right it may have to challenge any order or exemption specified in Section 40.1

relieving the Navy of its obligations to comply with this Agreement.

XLI. SEVERABILITY

41.1 If any provision of this Agreement is ruled invalid, illegal, or unconstitutional, the remainder of the Agreement shall not be affected by such ruling.

XLII. SIGNATURE PAGE

Each undersigned representative of a Party certifies that he/she is fully authorized to enter into the terms and conditions of this Agreement and to legally bind such Party to this Agreement.

FOR THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

BY:

John P. DeVillars
Regional Administrator
EPA Region I

DATE

FOR THE UNITED STATES DEPARTMENT OF THE NAVY

BY:

Assistant Secretary of the Navy
(Installations & Environment)

DATE

FOR THE STATE OF CONNECTICUT

BY:

Timothy Keeney
Commissioner
Department of Environmental Protection

DATE

APPENDIX I

TOPICS TO BE DESCRIBED IN SCOPE OF WORK FOR RD/RA

I. REMEDIAL DESIGN WORK PLAN

- a. Health and Safety Plan (HSP), if required by the ROD
- b. Sampling and Analysis Plan, if required by the ROD, including the:
 1. Quality Assurance Project Plan
 2. Field Sampling Plan
- c. Site Security Plan, if required by the ROD
- d. RD Investigation Description(s), if required by the ROD
- e. Preliminary Monitoring Plans
- f. Review and Evaluation of Monitoring Data
- g. Detailed Statement of ARARs
- h. Development of Design Plans and Specifications for the following stages:

II. Sixty Percent (60%) Remedial Design

- a. Revisions to the RD Work Plan based upon EPA and State's review and comment
- b. Plans, specifications and calculations equivalent to 60% of the overall design
- c. Statement of ARARs Evaluation
- d. Initial Draft Construction QA/QC Project Plan
- e. Initial Draft Contingency Plan
- f. Results of a value engineering study, if applicable.

III. Eighty-five Percent (85%) Remedial Design

- a. Corrected design prints and calculations, including written comments to define corrections and/or additions to 60% Design
- b. Plans, specifications and calculations equivalent to 85% of the overall design
- c. Initial draft Operation and Maintenance Plan

IV. Final Remedial Design

- a. 100% final design plans and specifications
- b. Final Draft Construction QA/QC Project Plan
- c. Final Contingency Plan
- d. Final Operation and Maintenance Plan
- e. Constructability Review Verification

V. REMEDIAL ACTION WORK PLAN

- a. Final Construction QA/QC Project Plan
- b. Description of Implementation Activities to Effectuate RD, including:
 - 1. Contractor mobilization/site preparation
 - 2. Construction and start-up of soil treatment facilities, if applicable
 - 3. Construction and start-up of groundwater extraction and treatment facilities, if applicable
 - 4. Excavation/dredging of contaminated sediments in wetland areas, if applicable
 - 5. Restoration of disturbed wetlands, if applicable
 - 6. Performance monitoring of groundwater and demobilization of treatment facilities
 - 7. Long-term environmental monitoring
- c. Description of Schedule for RA Completion

VI.

**FINAL REMEDIAL CONSTRUCTION REPORT(S)/CLOSE-OUT
REPORT(S)**

- a. Summary of Procedures Employed during RD/RA
- b. Analytical Data and Field Notes
- c. Presentation of RD/RA Results
- d. Conclusions regarding conformance of treatment processes with Performance Standards
- e. Descriptions of the actions taken and any potential future actions to be taken to grade, loam, and vegetate the Site
- f. Updated O & M Plan

APPENDIX II

MAPS SHOWING NSBNL, STUDY AREAS, AND AREAS OF CONTAMINATION

285

G O L F

C O U R S E

PROVIDENCE & WORCHESTER R.R.

176

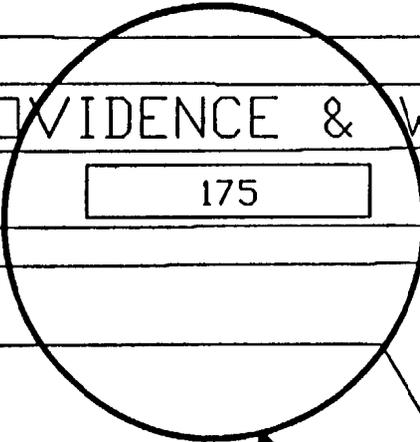
175

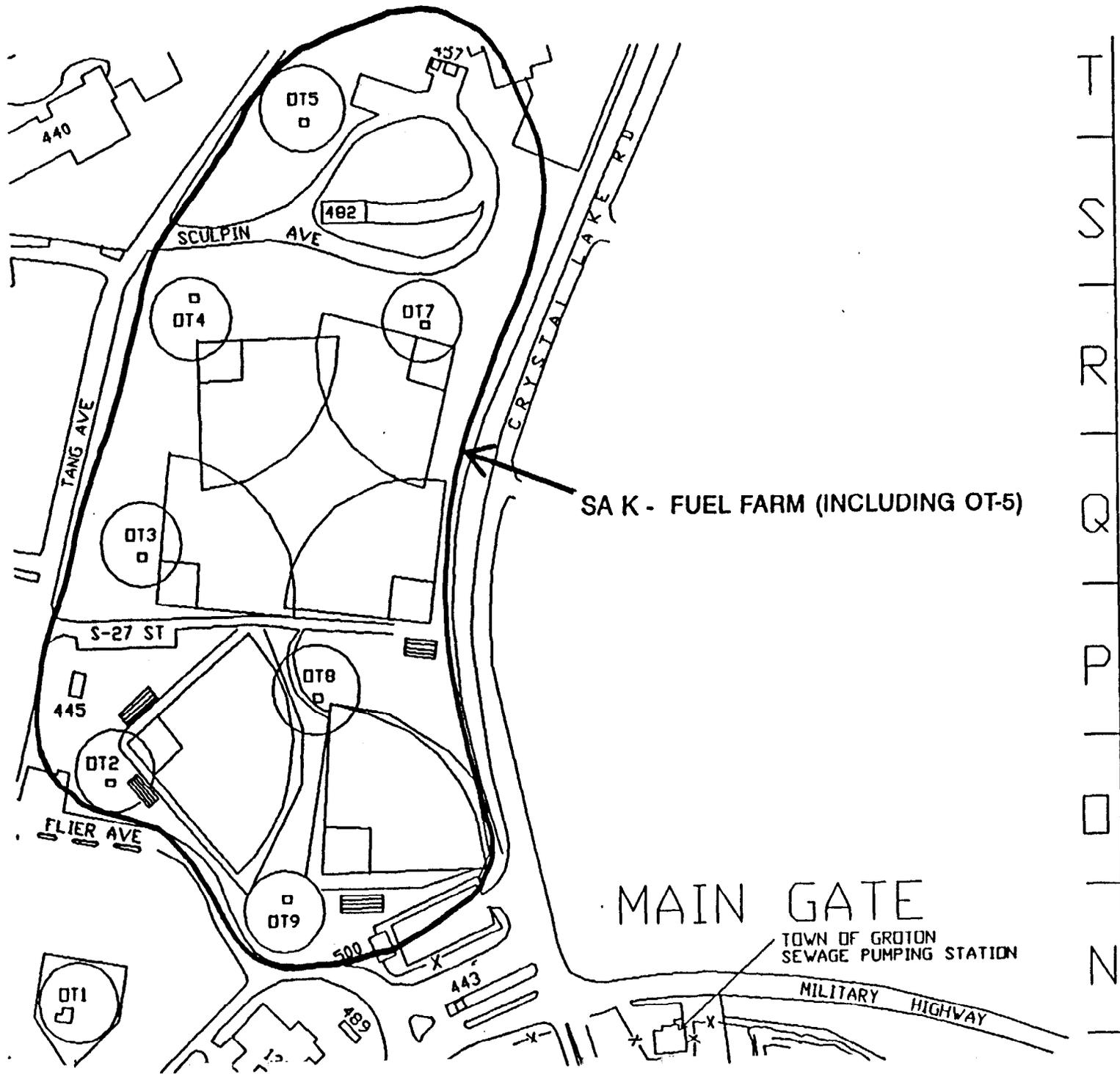
295

II - 2

SA J - PIER 33

33





SA K - FUEL FARM (INCLUDING OT-5)

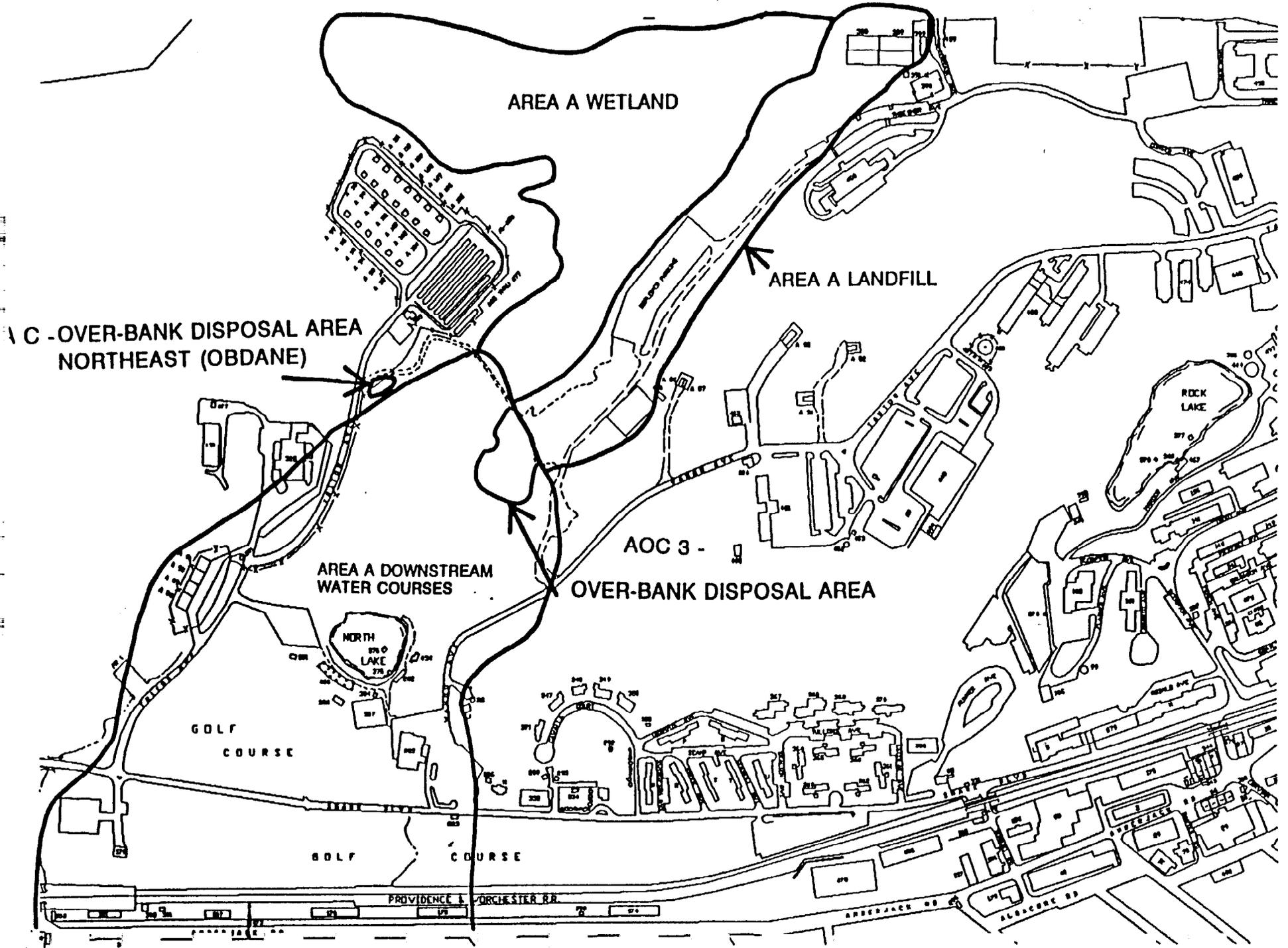
MAIN GATE

TOWN OF GROTON
SEWAGE PUMPING STATION

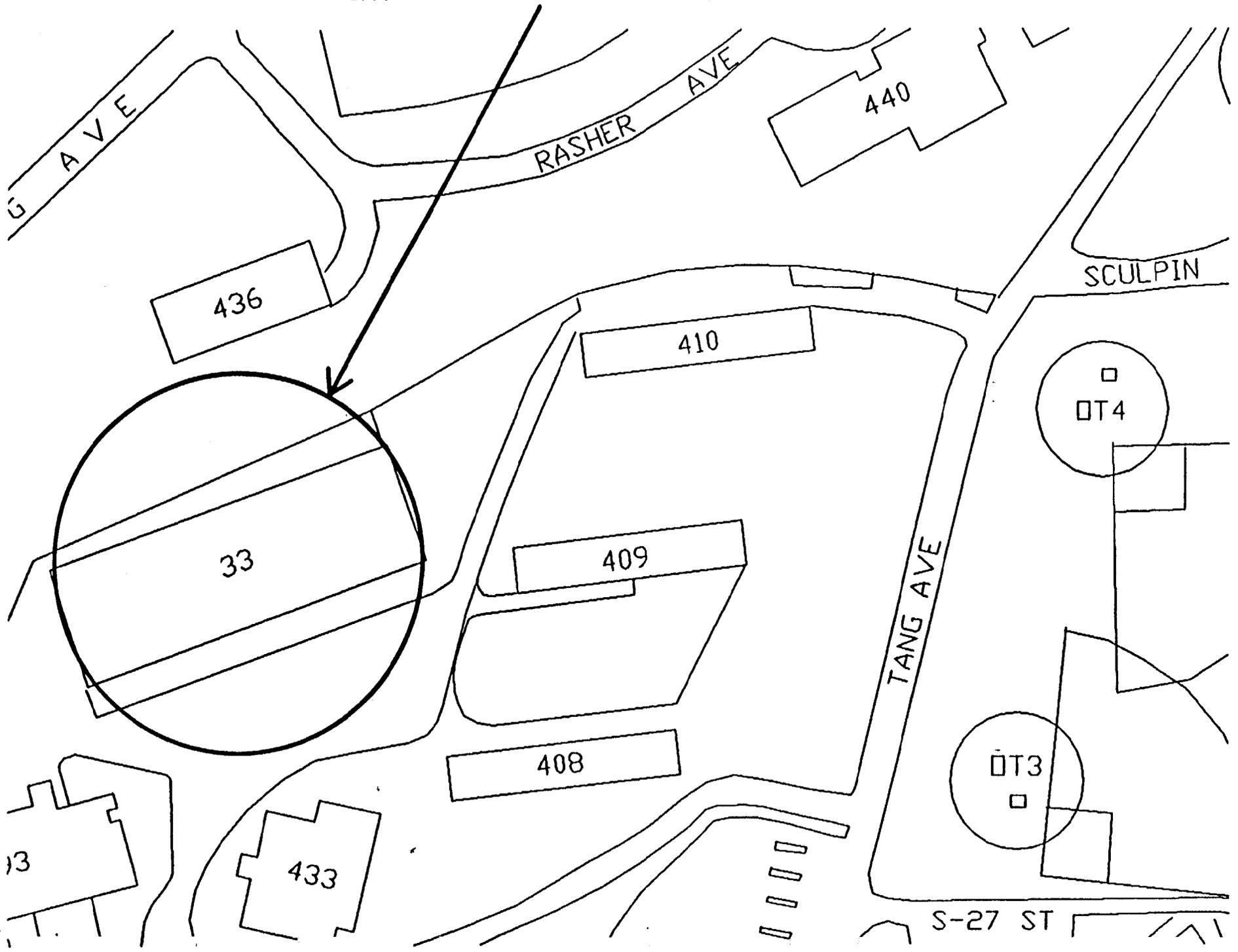
MILITARY HIGHWAY

H
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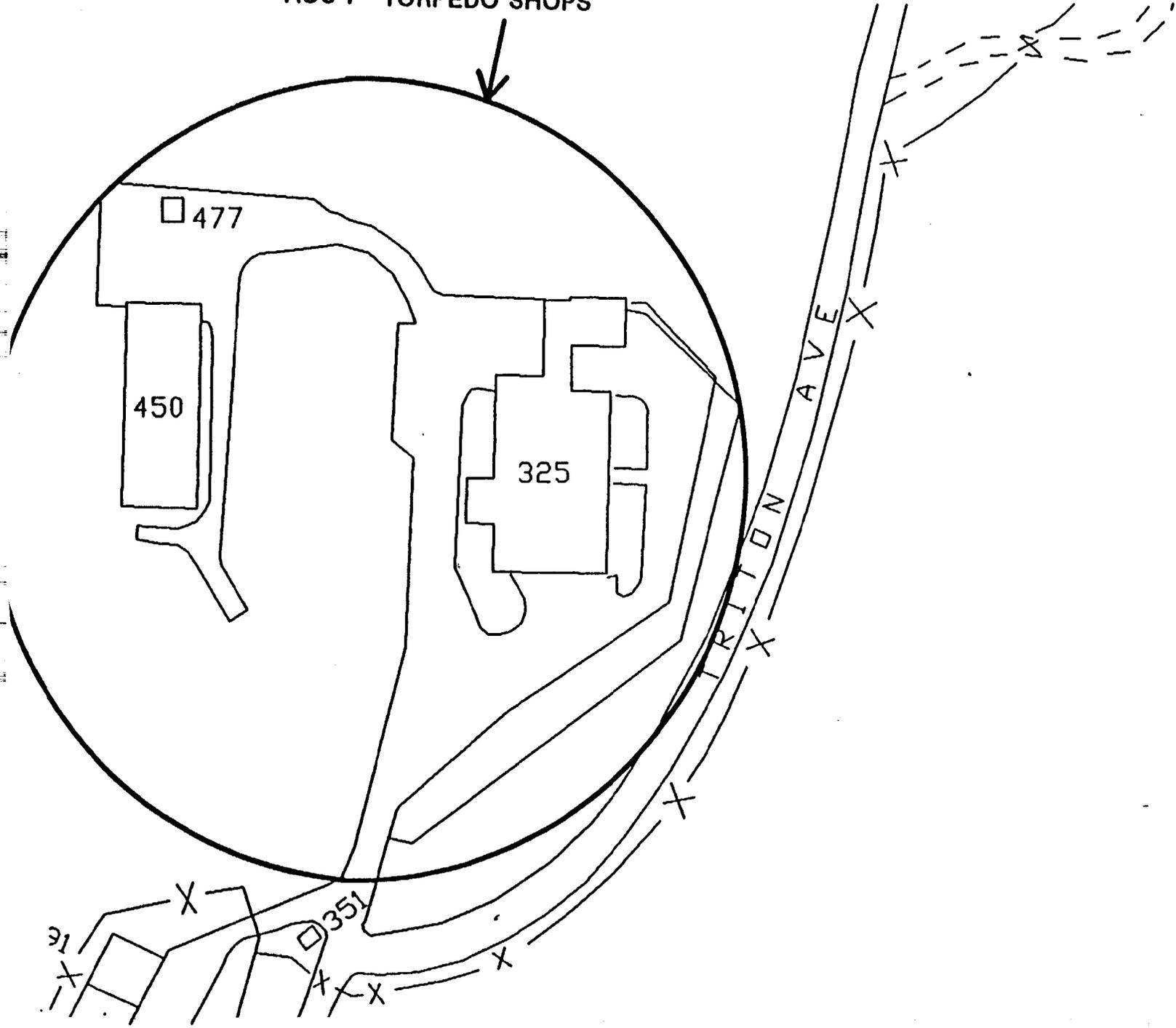
**AOC 2 - AREA A (INCLUDING LANDFILL, WETLANDS,
& DOWNSTREAM WATER COURSES)**



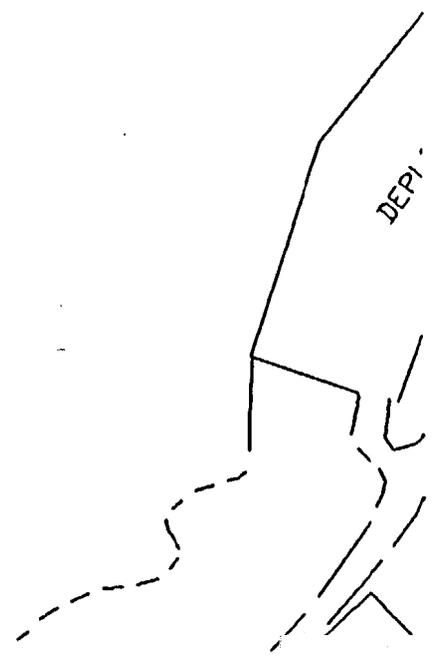
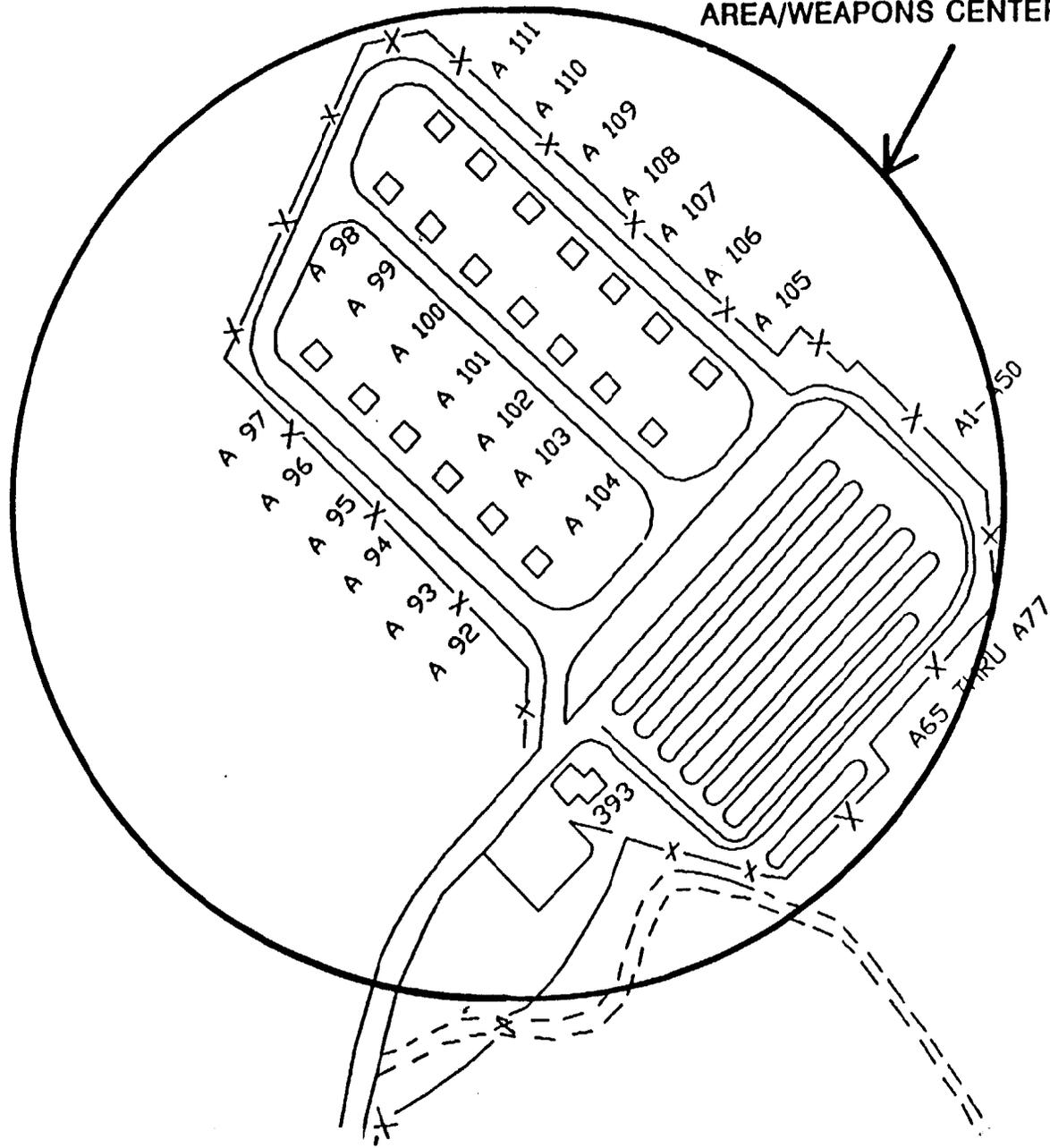
SA F - SOLVENT STORAGE AREA (BUILDING 33)

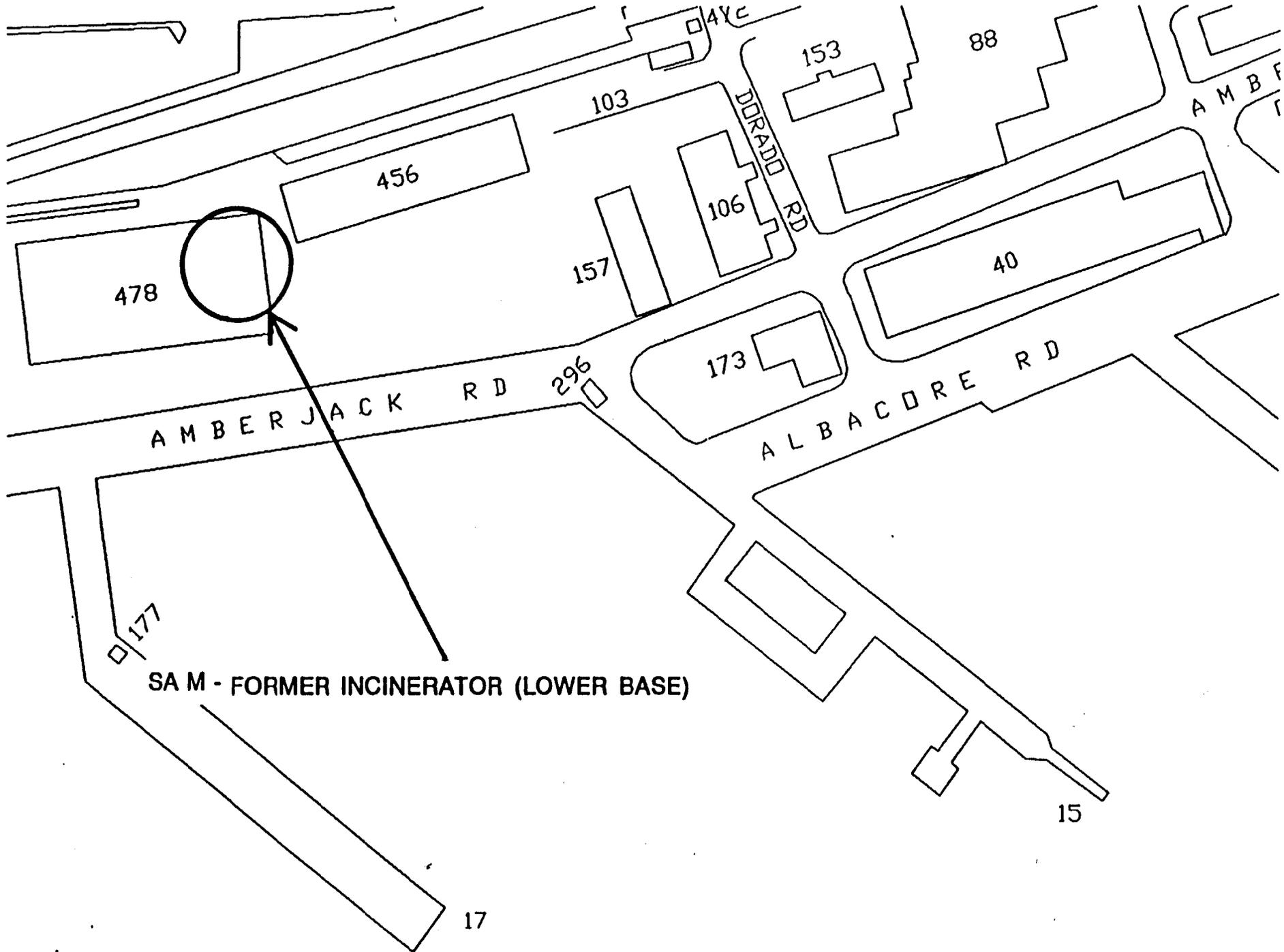


AOC 7 - TORPEDO SHOPS

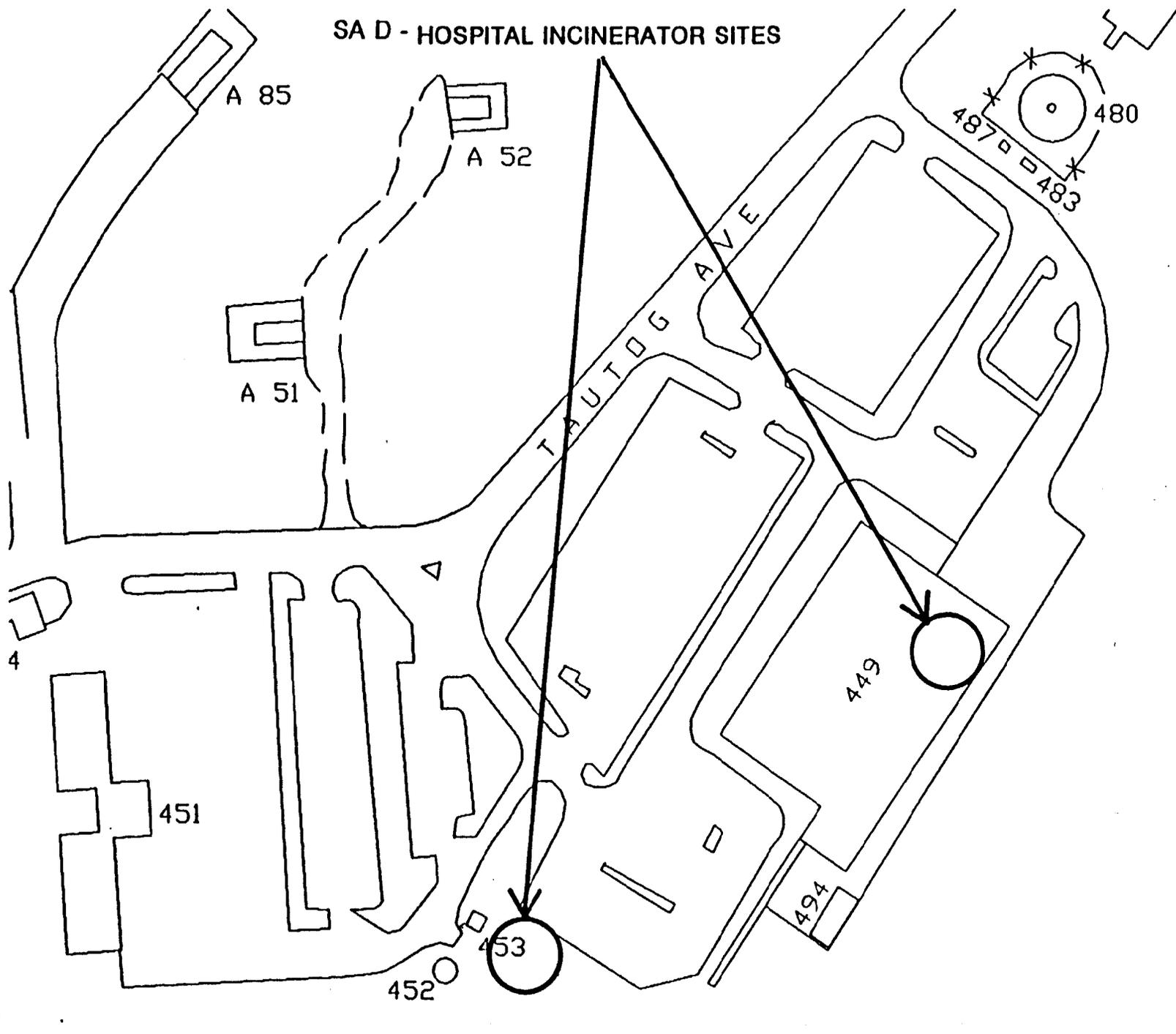


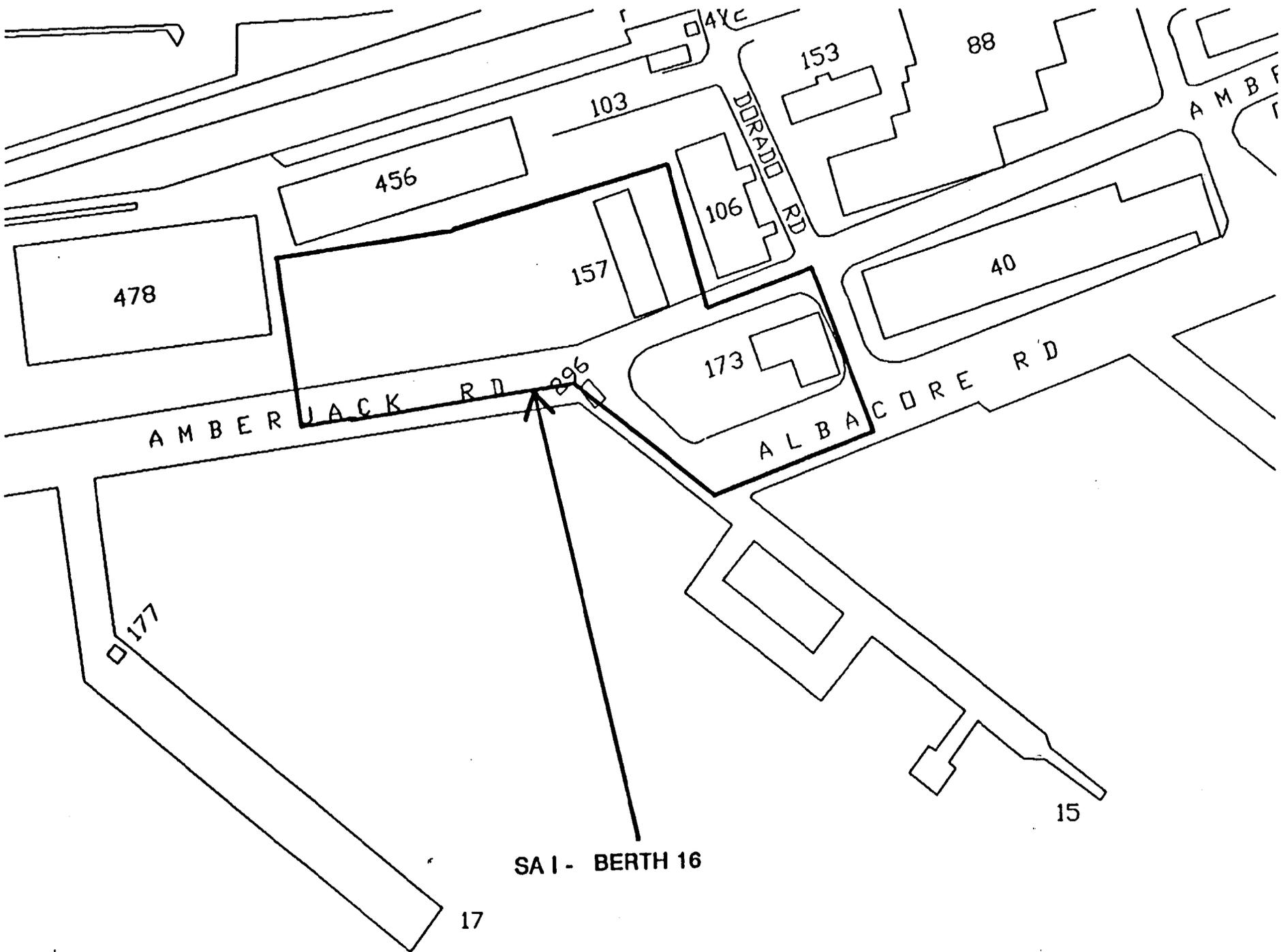
SA H - WEAPONS STORAGE AND HANDLING
AREA/WEAPONS CENTER



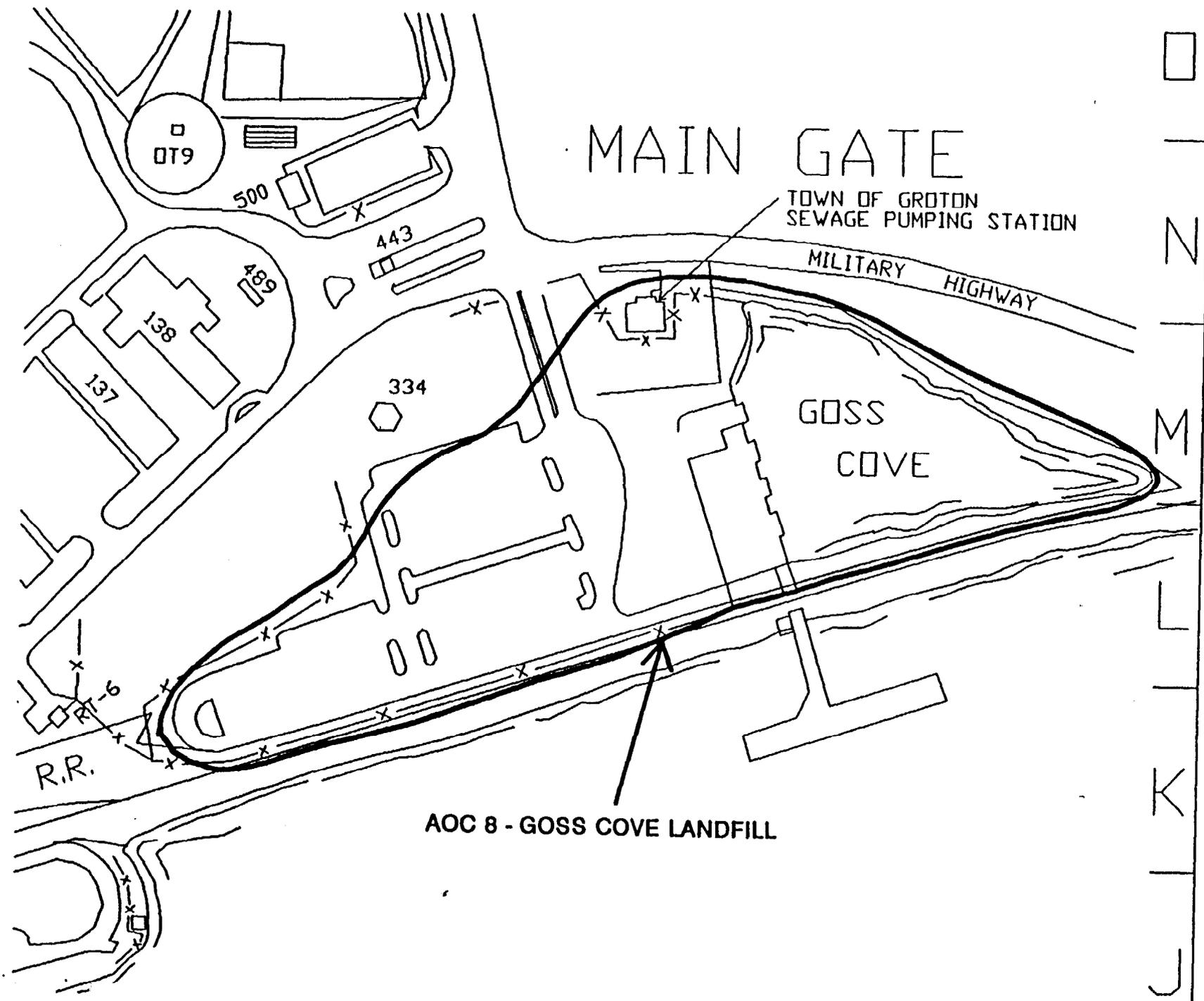


SA D - HOSPITAL INCINERATOR SITES

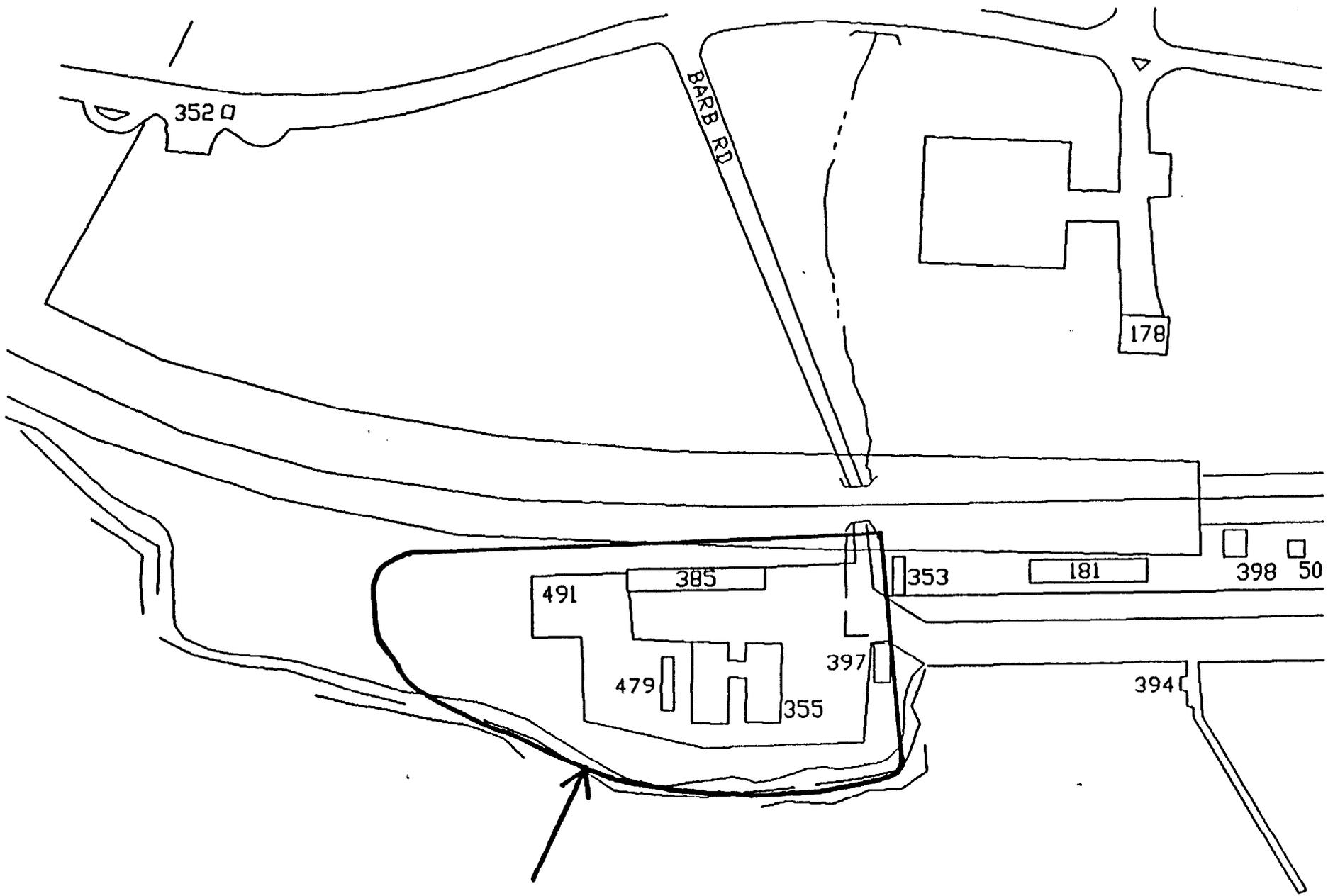




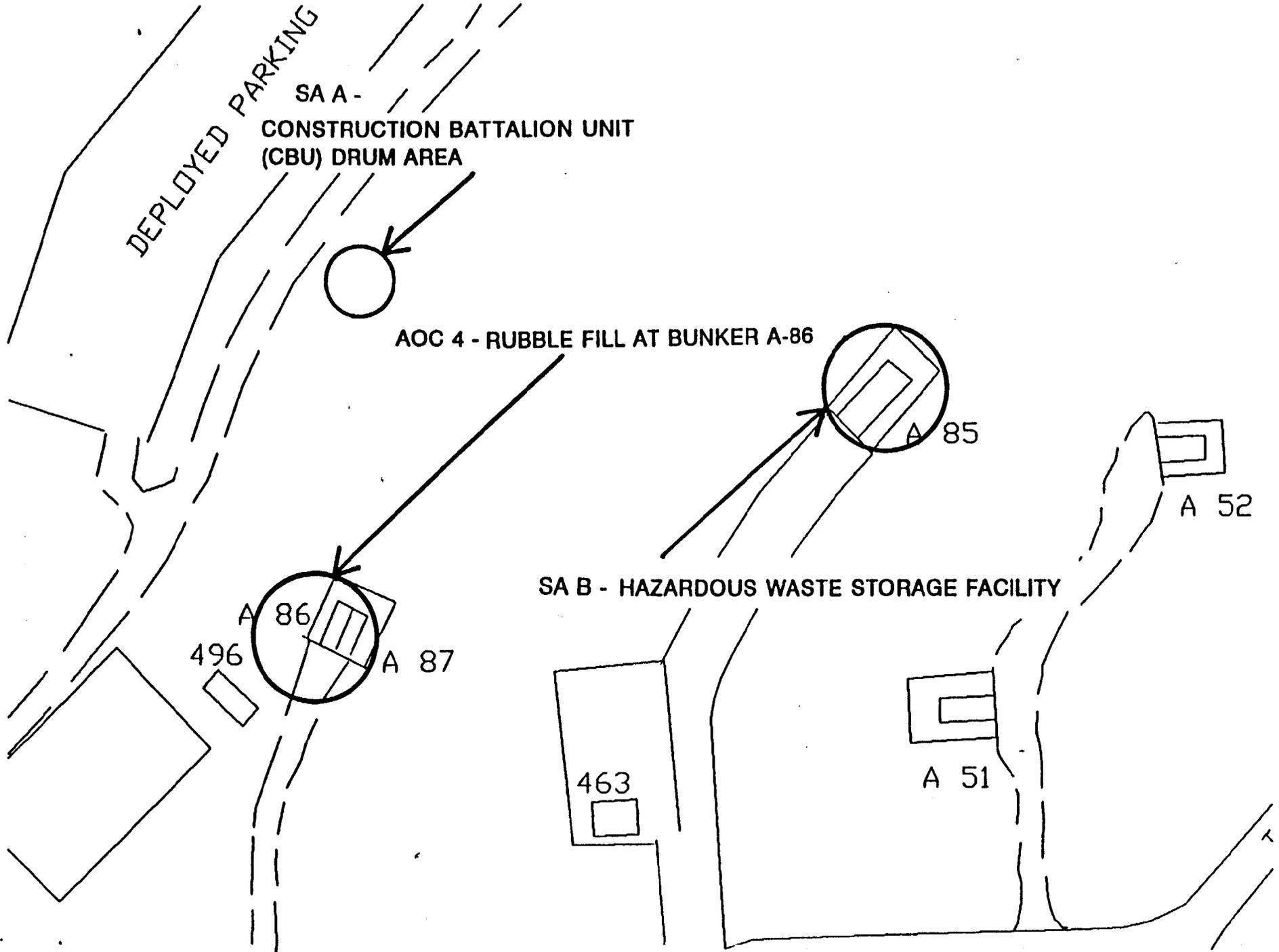
SA I - BERTH 16



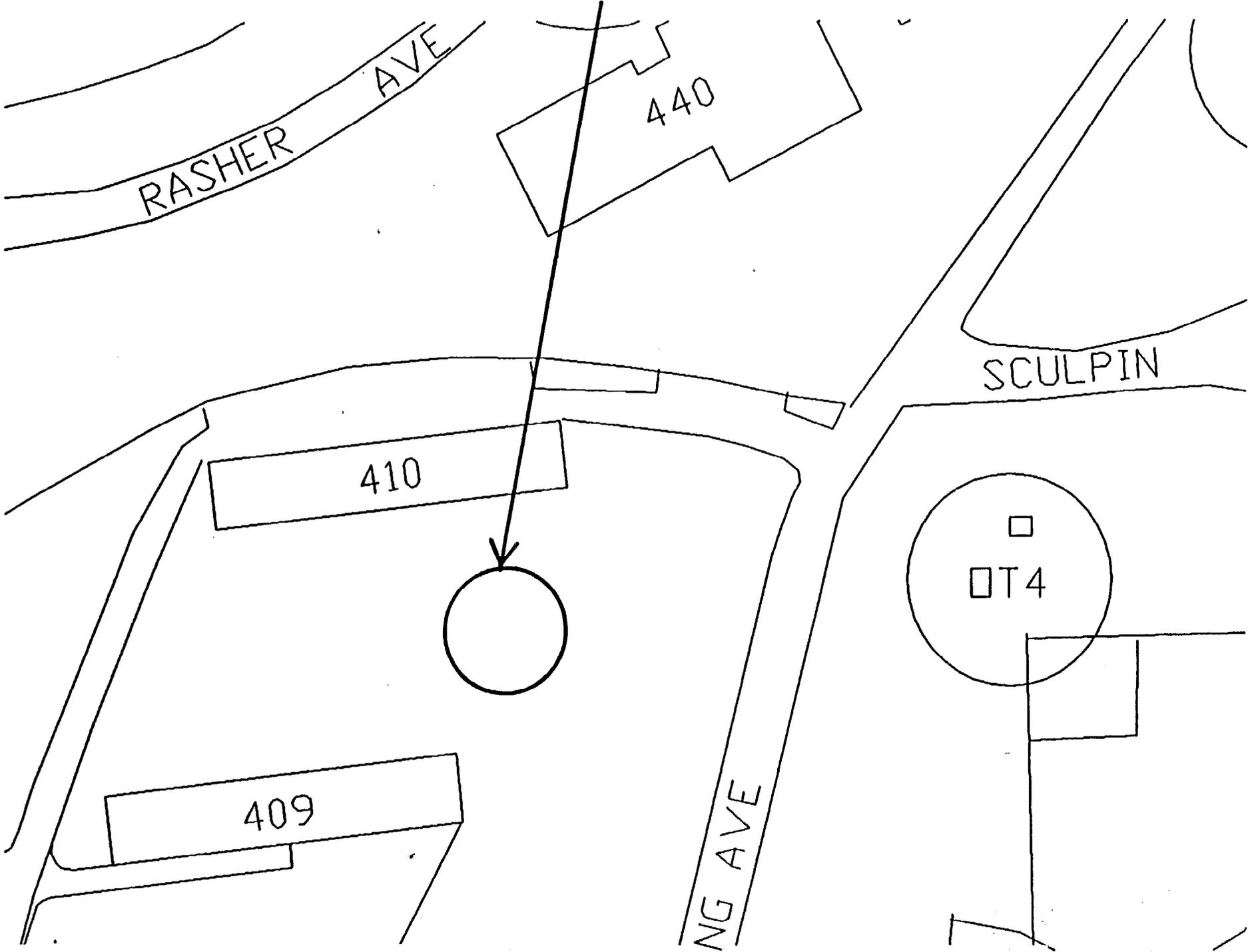
AOC 8 - GOSS COVE LANDFILL

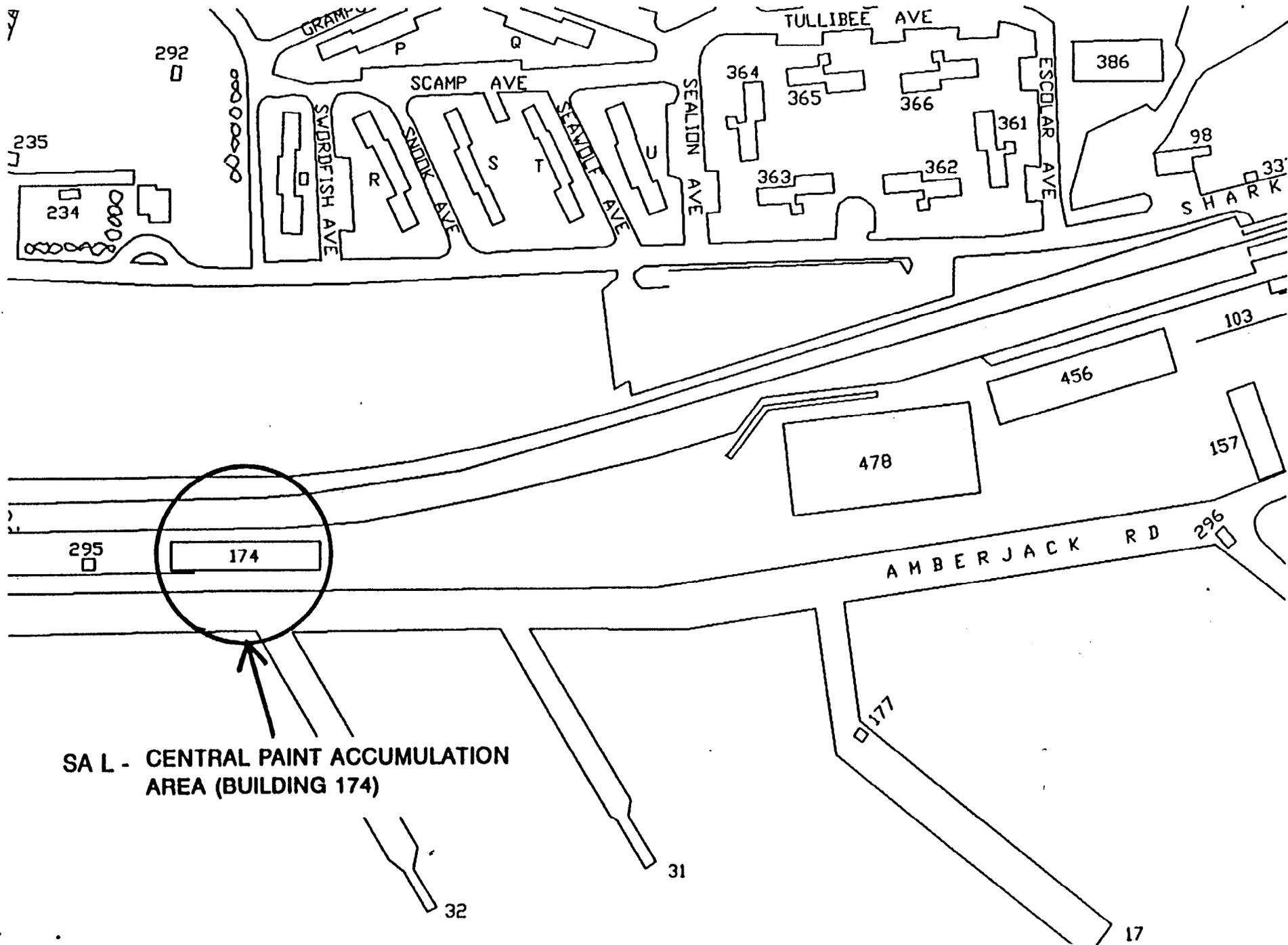


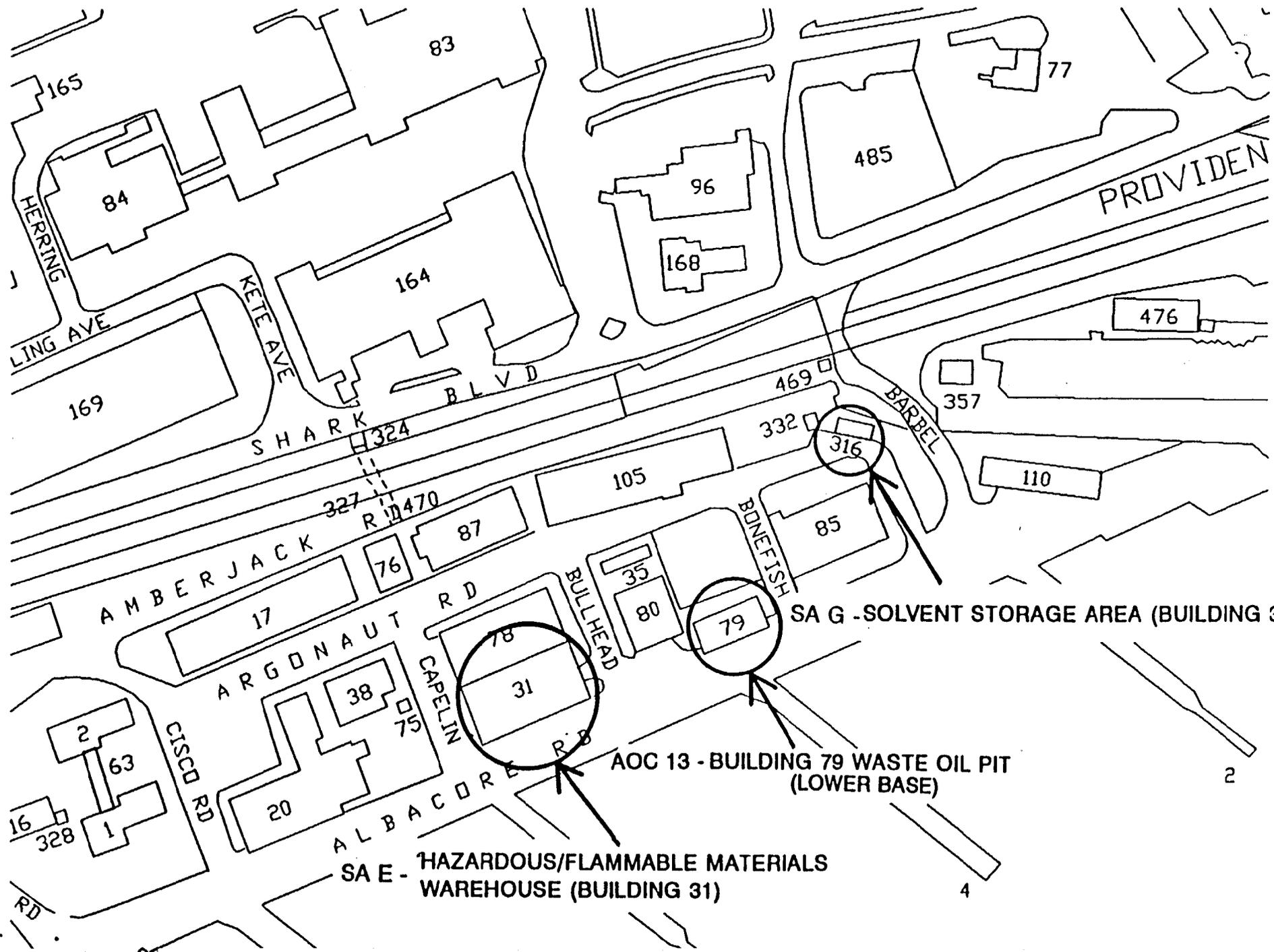
**AOC 6 - DEFENSE REUTILIZATION AND MARKETING
OFFICE (DRMO) AREA**



AOC 15 - SPENT ACID STORAGE AND DISPOSAL AREA



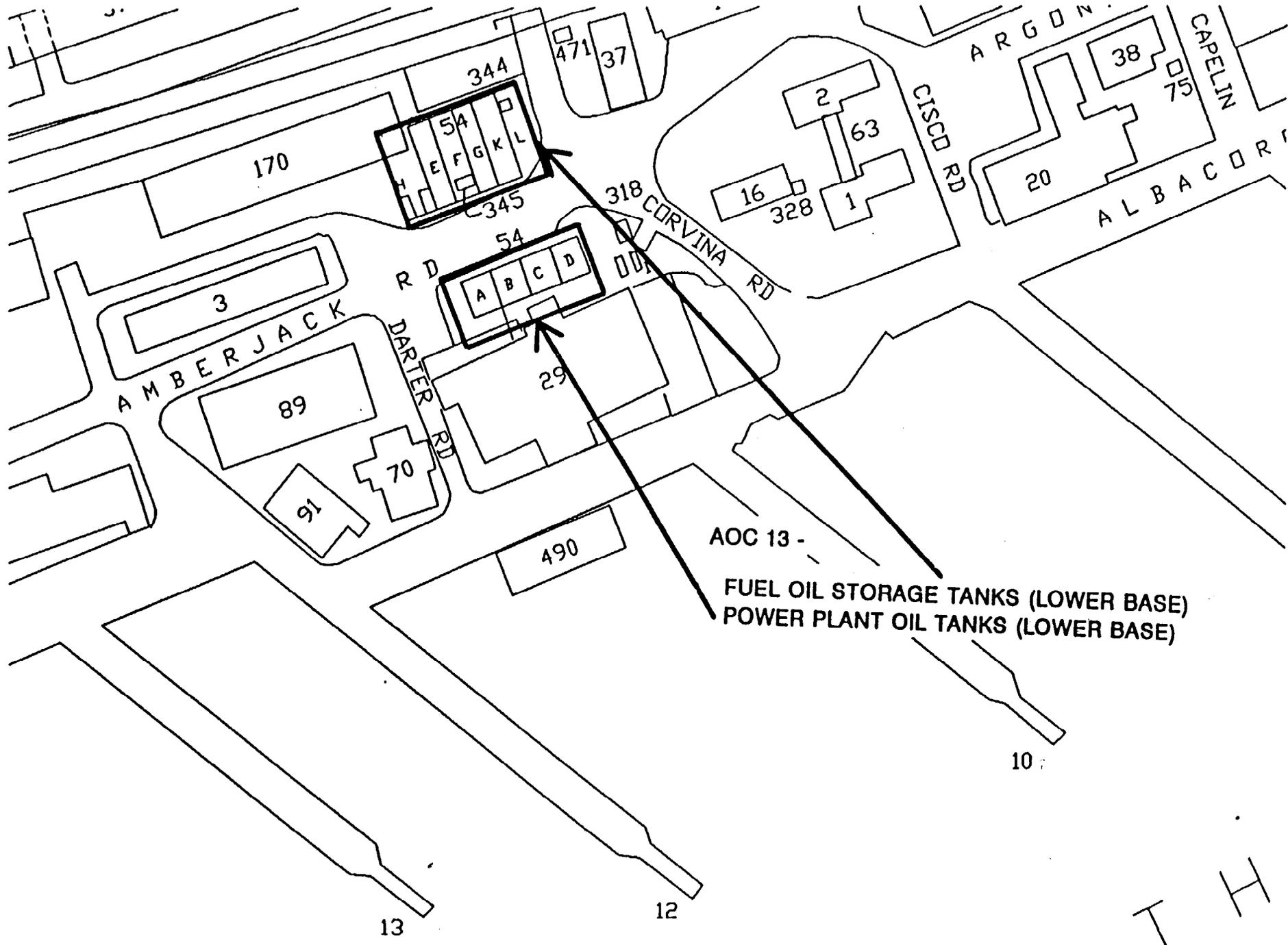




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AOC 13 -
 FUEL OIL STORAGE TANKS (LOWER BASE)
 POWER PLANT OIL TANKS (LOWER BASE)

T H

APPENDIX III

DESCRIPTION OF STUDY AREAS AND AREAS OF CONTAMINATION

<u>SA</u>	<u>AOC</u>	<u>IAS</u>	<u>Description</u>
A		1	<p><u>Construction Battalion Unit (CBU) Drum Area [also referred to as Construction Battalion Center (CBC) Drum Area]</u> - Twenty-six 55 gal. drums of waste oil, lube oil and paint materials were located in the vicinity. Some of the drums were observed as leaking and two drums were removed in 1988. Surface soil analyses conducted in 1991 indicated the presence of petroleum hydrocarbons, and low levels of volatile organic, polyaromatic hydrocarbon and the pesticide DDD.</p>
	2	2	<p><u>Area A Landfill</u> - The landfill is composed of approximately 148 acres and is divided into three areas: Area A landfill, Area A Wetland and Area A Downstream Watercourses. Waste acid, drums containing solvents, transformers (PCBs and minerals), and electrical switches were observed on the concrete pad built for hazardous waste storage. Steel drums, metal scrap, concrete tires and oxygen candles were located at the boundary of the landfill.</p>
	3	3	<p><u>Over Bank Disposal Area</u> - Thirty partially covered empty 200-gallon metal fuel tanks and scrap lumber were deposited on this location. Telephone poles with creosote and several empty 55 gallon drums and scrap wire rolls were also on-site.</p>

<u>SA</u>	<u>AOC</u>	<u>IAS</u>	<u>Description</u>
	4	4	<u>Rubble Fill at Bunker A-86</u> - Concrete materials, asphalt, tar, and rubble debris were identified at this site. Disposal practices had been estimated to be underway for no more than ten years.
B		5	<u>Hazardous Waste Storage Facility</u> - Former Ammunition Bunker A-85 and adjacent storage sheds have been used as a drum storage facility since 1980. Bunkers A-86 and A-87 were added to this facility in 1991. Hazardous waste generated throughout the base is stored at this site prior to removal for disposal.
	6	6	<u>Defense Property Disposal Office (DPDO) Area [also referred to as Defense Reutilization and Marketing Office (DRMO) Area]</u> A former landfill and burning ground from 1950 to 1969. Materials dumped and/or burned include construction rubble, scrap (e.g. tires, furniture) and other non-salvageable waste items. Submarine batteries are stored in this areas with no leakage observed. A battery acid handling facility was also identified in this area.
	7	7	<u>Torpedo Shops</u> - A former quarry and torpedo overhaul facility, this area also acted as an quality assurance center for undersea weapons. Various fuels, solvents and petroleum products are in use in this facility.

<u>SA</u>	<u>AOC</u>	<u>IAS</u>	<u>Description</u>
			A 2,000 gallon concrete hazardous waste storage tank was used at the facility from 1972 to 1988. This tank was cleaned and abandoned in 1992. There is evidence that a release from this tank has occurred.
	8	8	<u>Goss Cove Landfill</u> - Former landfill operated from 1946 to 1957 with reported material consisting of incinerator ash and rubble. Several gas cylinders were found during construction of the museum.
K		9	<u>Oily Waste Water Tank OT#5</u> - Oil tank #5 is a 750,000-gallon reinforced underground concrete tank which was constructed as part of a Fuel Farm (see Study Area K) in 1942. It was originally used to store diesel oil. In the 1970's it was converted to a waste oil tank and was used to collect bilge waste from the submarines as well as other oils and oily waste water from various locations on the base. It was taken out of service in 1989.
			A limited environmental study conducted in December 1991 revealed high levels of PCBs, pesticides, VOCs and metal in the waste oil and sludge within the tank; petroleum and pesticides contamination outside of the tank above and below the ground water table; and, PCBs near the ground surface adjacent to the tank.
			Because of its close proximity to other tanks in the Fuel Farm, the further assessment of this study area will be conducted as part of the Study Area K - Fuel Farm investigation. (See page III-8 below.)

<u>SA</u>	<u>AOC</u>	<u>IAS</u>	<u>Description</u>
	13	10	<p><u>Fuel Oil Storage Tanks (lower base)</u> - Three 125,000 gallon concrete tanks were used to store diesel oil from 1942 to 1987, when they were emptied, cleaned, and filled with sand. Two 25,000 gallon concrete tanks were used to store lube and hydraulic oils from 1954 to 1989. They were replaced with 20,000 gallon steel tanks, which are located inside the former concrete tanks which were emptied and cleaned in 1989. A 30,000 gallon concrete tank was used to collect diesel oil off-loaded from submarines from 1942 to 1989. This tank is out of service and is scheduled to be abandoned in 1994. There is evidence there have been releases from these tanks and/or associated piping systems.</p>
	13	11	<p><u>Power Plant Oil Tanks (lower base)</u> - There were six tanks located on the east side of the Power Plant that were used to store petroleum products.</p> <p>Two 125,000 concrete tanks were used to store diesel oil and two 250,000 concrete storage tanks were used to store #6 oil from the 1920's to 1985. They were replaced with three 150,000 gallon steel tanks in 1985 which were used to store #6 oil. These tanks were converted to #2 oil in 1992.</p> <p>One 30,000 gallon concrete tank was used from 1954 to 1989 to reclaim #6 oil from oil water mixtures which accumulated in the pump room. It was replaced in 1989 with a 30,000 gallon steel tank which is located inside the outer walls of the concrete tank which was emptied and cleaned.</p>

<u>SA</u>	<u>AOC</u>	<u>IAS</u>	<u>Description</u>
			A 30,000 gallon concrete storage tank was used to store waste oils. It was constructed in 1943. It was cleaned and filled in 1987.
	13	13	<u>Building 79 Waste Oil Pit (lower base)</u> - This building was used to overhaul railroad engines in the 1930's and 1940's. There was a sump in the northwest corner of the building where lube oils were reportedly drained. This sump was sealed in the early 1980's. There is evidence of oil contamination in the area north and west of this building.
C		14	<u>Over Bank Disposal Area Northeast (OBDANE)</u> - Several fiber drums were identified at this location with suspected impacts on nearby surface drainage system. Disposal of refuse materials was suspected to have occurred here.
	15	15	<u>Spent Acid Storage and Disposal Area</u> - This area was used for temporary storage and disposal of waste battery acid post World War II.
D		16	<u>Hospital Incinerator</u> - The Naval Hospital Groton operated a skid mounted pathological waste incinerator at two locations adjacent to the hospital during the 1980's. The incinerator was used to destroy pathological waste as well as medical records. Ash from the incinerator was placed in dumpsters for disposal at the municipal landfill.

<u>SA</u>	<u>AOC</u>	<u>IAS</u>	<u>Description</u>
E			<p><u>Hazardous/Flammable Materials Warehouse</u> - Building 31 was used as the main hazardous/flammable materials warehouse from the 1970s to the present. Items such as sulfuric acid, methyl isobutyl ketone, potassium hydroxide, potassium tetraborate, hydrofluoric acid, and nitric acid were stored in containers up to 55 gallon capacity.</p>
F			<p><u>Solvent Storage Area - Building 33</u> - This building is currently used for the storage of solvents such as trichlorethylene and dichloroethylene which were reportedly stored in 55 gallon drums and gas cylinders.</p>
G			<p><u>Solvent Storage Area - Building 316</u> - This building is currently used to store 5 gallon drums of acetone and MEK.</p>
H			<p><u>Weapons Storage and Handling Area/ Weapons Center</u> - Magazines A-1 through A-50, A-65 through A-77, and A-92 through A-111 are currently used for a wide variety of high explosives including demolition charges, boosters, hand grenades, igniters, detonators, primers, and MK 37, 48, and 107 warheads. Elevated levels of cyanide and PAHs and low levels of PCBs were detected in samples collected from areas adjacent to the Weapons Center. Detection of these compounds suggested a possible source of contaminants at the Weapons Center.</p>

SA

AOC

IAS

Description

This study area also includes a suspected tank that was discovered on July 15, 1992 during construction activities at the Naval Submarine Support Facility (NSSF) Weapons Complex gate. An investigation of the area was initiated on July 16 by Public Works Department (PWD) personnel. Initial excavation showed the tank to be approximately 4 feet in diameter with a length of 10 feet.

The original capacity was estimated to be 1,000 gallons. A small amount of contaminated soil was present along the west side of the tank. PWD personnel excavated the tank and removed it along with the contaminated soil. The excavation was immediately backfilled with clean sand. Further study will be conducted to determine if past contamination has impacted the environment.

I

Berth 16 - The northern portion of this site was previously used for coal storage. Between 1918 and 1944, Buildings 173, 157, 106 and a garbage incinerator (Study Area O) were constructed for use as an electrical substation (which could have contained PCBs), a photolab and electronics shop, and a periscope shop, respectively. Adjacent to the incinerator was a dumpster cleaning operation. In 1946 the waterfront was extensively developed to accommodate berthing of the reserve fleet. Since 1946 the incinerator has been demolished and Buildings 456 and 478 have been constructed for use as maintenance shops. There are two known underground storage tanks in this

SA

AOC

IAS

Description

area. The underground diesel fuel lines that were constructed around 1954 have since been taken out of service, but the method of abandonment is unknown.

J

Pier 33 - This area of the Subase was undeveloped until around 1946 at which time it was extensively renovated to berth the reserve fleet. The area was dredged and filled; bulkheads, piers, and support buildings and utilities were constructed. Building 175 was constructed for battery electrolyte (sulfuric acid) storage and was completely filled with large above ground storage tanks which were connected to the piers by underground pipes. The acid storage tanks and underground piping have been removed; the building is presently used for storage and administration. The August 1991 Plan of Action reports that a small area of what appears to be oil stained soils was observed near the fill pipes for the underground heating oil storage tank on the south side of the building.

K

Fuel Farm - The farm consists of nine underground storage tanks (OT-1 - OT-9) under a ball field in the southern portion of the base.

The tanks were installed in the early 1940s in an area that once was the site of a shallow lake known as Crystal Lake. All tanks have been taken out of service. Fuel oil has been discovered in storm drains in the tank farm area.

SA

AOC

IAS

Description

Eight of the tanks are concrete cylindrical structures, 100' in diameter and 11' high. OT-4 and OT-7 through OT-9 were used to store #2 fuel oil. OT-1 through OT-3 were used to store #6 fuel oil from 1942 to 1991. OT-6 was also used to store #2 fuel oil but has since been demolished. For a description of OT-5, see the site description for IAS site 9 above.

A limited field investigation conducted in June 1991 around tanks OT-1 through OT-3 revealed high levels of TPH in surface soils surrounding the tanks and elevated levels of petroleum-related VOCs in the ground water.

For purposes of this Agreement, this Study Area consists of any releases from tanks OT-1 through OT-9 that contain CERCLA hazardous substance(s) or petroleum products commingled with CERCLA hazardous substance(s). (See section 31.8 of this Agreement.) Closure of any of the tanks OT-1 through OT-9 that are petroleum-containing underground storage tanks (UST) will be addressed under the State underground storage tank program.

Actions taken at this study area pursuant to this Agreement shall be deemed to comply with and satisfy all requirements of Federal and State underground storage tank and/or hazardous waste laws and regulations regarding closure of underground storage tanks containing CERCLA hazardous substances.

L

Building 174 - Central Paint Accumulation Area - Building 174 was rehabilitated to sandblast and paint anchor chains in 1982. Included was a paint storage area which in the late 1980's became the central paint storage area for all paint used on board ships and in ship related work. This site was identified as a potential area of contamination during a 1991 multi-media inspection.

SA

AOC

IAS

Description

M

Lower Base Incinerator - Building 97 was used from 1944 to 1963 to burn classified materials and other solid wastes generated at NSBNL. It was reported that ash from this incinerator was disposed in the Goss Cove Landfill. The incinerator was demolished in 1979.

**APPENDIX IV
DEADLINES AND SCHEDULES**

The following Timetable is based on the Navy's April 1989 RI/FS Work Plan submitted to EPA and the State which addresses all Areas of Contamination identified as of the Effective Date of the Agreement. It is the expectation of the Parties that, upon finalization of the Phase II RI Report, the Parties will review the sites for inclusion in Parts 1 & 2 and the schedules to determine if any revisions are necessary. The following Phase II RI deadlines will remain in effect until any necessary revisions have been agreed to by the parties.

<u>Document</u>	<u>Deadline</u>
RI/FS Work Plan	April 1989
Phase I RI Report	August 1991
Phase II RI Work Plan	November 14, 1992
Pier 33 and Berth 16/Former Incinerator	
SI Report	September 1, 1993
RI Report	March 1, 1996
FS Report	March 1, 1997
Proposed Plan	September 1, 1997
ROD	August 1, 1998
Focused Feasibility Study	May 1, 1994
Area A, OBDA, DRMO, Spent Acid Storage	
Area A Landfill	
Proposed Plan	December 31, 1994
ROD	March 31, 1995
Area A Downstream/OBDA	
Feasibility Study	November 1, 1995
Proposed Plan	August 1, 1996
ROD	December 1, 1996
Preliminary Assessment (§6.7)	December 31, 1994
Supplemental IAS (§6.6)	November 30, 1994
SASE Report	May 1, 1997
Phase II RI Report*	March 1, 1995

<u>Document</u>	<u>Deadline</u>
Phase II RI (Part 1)	
FS Report	June 1, 1996
Proposed Plan	March 1, 1997
ROD	August 30, 1997
Phase II RI (Part 2)	
FS Report	June 1, 1997
Proposed Plan	March 1, 1998
ROD	August 30, 1998

* This RI is for SA/AOC/IAS: Construction Battalion Unit Drum Storage Area (CBU) (IAS-1), Area A Landfill (AOC-2), Over Bank Disposal Area (OBDA) (AOC-3), Rubble fill at Bunker A-86 (AOC-4), Defense Reutilization and Marketing Office (DRMO) (AOC-6), Torpedo Shops (AOC-7), Goss Cove Landfill (AOC-8), Lower Subase (AOC-13), Over Bank Disposal Area Northeast (OBDANE) (IAS-14), Spent Acid Storage and Disposal Area (AOC-15), and Weapons Storage and Handling Area/Weapons Center (SA-H).