



STATE OF CONNECTICUT  
DEPARTMENT OF ENVIRONMENTAL PROTECTION



October 23, 1996

Ms. Mary Sanderson  
Federal Facilities Section Chief  
EPA New England - HBT  
JFK Federal Building  
Boston, MA 02201

Subject: Naval Submarine Base - Groton

Dear Ms. Sanderson, *M. Murphy*

The purpose of this letter is to (1) explain to you our position on the need for additional remedial action at the Spent Acid Storage and Disposal Area within the Naval Submarine Base New London (the Subbase), a Federal Facility on the NPL, and (2) explore a potential loophole in the process for the investigation and remediation of the Subbase that appears to circumvent the requirement that final remedial actions must attain State ARARs. This "loophole" results from the use of removal actions.

**Background**

In 1994, the Navy identified two sites within the Subbase where Time Critical Removal Actions would be appropriate to address unacceptable risks to human health posed by contaminants present in soil. These areas were the Defense Reutilization and Marketing Office (DRMO) and the Spent Acid Storage and Disposal Area (SASDA).

In a comment letter dated November 23, 1994 on the Draft Action Memorandum for the DRMO and the SASDA, the State raised concerns that the 500 ppm mass analysis and 5.0 mg/l TCLP target cleanup standards for lead in soil at the SASDA would not be protective of ground water or surface water quality (would not satisfy the then draft, but now adopted pollutant mobility criteria within the Remediation Standard Regulations). It was anticipated that the Remediation Standard Regulations would be adopted before a ROD for the DRMO and SASDA sites would be issued, and since the adopted Remediation Standard Regulations would be ARARs that must be satisfied by a final remedial action, it would be prudent for the Navy to comply with the draft standards to the maximum extent possible during the removal action. The Navy's consultant responded to the State's comments in a letter dated December 22, 1994. The Navy's decision was to proceed with the removal actions at DRMO and SASDA using the 500 ppm mass analysis and 5.0 mg/l TCLP target cleanup standards for lead that were originally proposed.

At the SASDA, the spent acid tank was removed, and lead contaminated soil (exceeding the proposed target cleanup standards for lead as identified in the draft Action Memorandum) was excavated in January 1995. Following the receipt of confirmation sample results, the excavation was backfilled and the area repaved. The Action Memorandum for the SASDA and the DRMO was dated March 1995, and was signed by the Commanding Officer at the Subbase on April 19, 1995.

As stated in the Action Memorandum, the SASDA site is one of many sites (Areas of Concern or AOCs) listed for assessment and remedial action in the Federal Facilities Agreement that was executed between the State, EPA, and the Navy on January 11, 1995.

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The Final Report for Soil Remediation at the SASDA, dated September 6, 1995, was received by DEP on September 18, 1995. On January 30, 1996, Connecticut's Remediation Standard Regulations were adopted.

#### Current Status

Based on statements within the March 1996 Phase II Remedial Investigation Report (which included investigations of the DRMO and SASDA sites) and the July 1996 Site Management Plan for the Subase, the Navy now believes that all unacceptable threats to human health and the environment have been addressed by the removal action at the SASDA, and there is no "actionable risk" to be addressed by a final remedial action. A No-Action Decision Document is being discussed for issuance in 1997 for the SASDA. EPA appears to support this position.

#### State Concerns

The TCLP analysis of soil remaining after excavation shows lead in excess of Connecticut's Pollutant Mobility Criteria for a GB<sup>1</sup> area. Based on the available data, the State believes that an unacceptable threat to the environment (ground water) *may* still remain unaddressed by the removal action at the SASDA.

The State is equally concerned with a process that may allow removal actions (that do not necessarily have to satisfy ARARs) to be used to reduce "actionable risk" to levels that would not trigger remedial action (and compliance with ARARs) under CERCLA. If there had been no time-critical removal action of lead contaminated soil at the SASDA, remedial actions would have been required to comply with (or formally waive) ARARs (including Connecticut's Remediation Standard Regulations).

Pursuant to section 120(a)(4) of CERCLA, the State has no authority to separately enforce State standards at this Federal Facility on the NPL, other than through the processes defined in the FFA.

#### State's Position

It is our position that even though waivers described in Section 300.430(f)(1)(ii)(C) of the National Contingency Plan (NCP) (40 CFR Part 300) may be used for removal actions, the removal at the SASDA was only a part of a total remedial action that must attain (or formally waive compliance with) ARARs. If, as suggested in our November 1994 comment letter, State standards for pollutant mobility in soil had been satisfied when the removal action was conducted, it might now be possible for the State to concur with a no further action proposal for the SASDA. Presently, it does not appear that the removal action is all the remedial action that is needed.

#### Recommended Course of Action

Connecticut's Remediation Standard Regulations allow either the TCLP or the SPLP methods of analysis to be used to determine compliance with the Pollutant Mobility Criteria. The TCLP method (which was

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<sup>1</sup>Reclassification of the entire Subase from GA to GB has been requested by the Navy. The request is currently under review by DEP. In anticipation of approval of the reclassification request, it is acceptable for the Navy to use the GB classification for the SASDA in the determination of the appropriate Pollutant Mobility Criteria within the Remediation Standard Regulations. If, for some unforeseen reason, the reclassification cannot be approved, the Pollutant Mobility Criteria for a GA area would have to be satisfied as an ARAR for the final remedial action for the SASDA.

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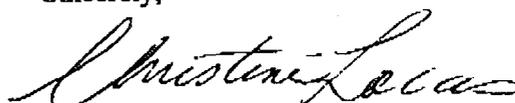
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used to determine compliance with the removal action criteria) is a very aggressive leaching procedure. The SPLP method is a less aggressive procedure which is thought to be a more realistic measure of the potential of inorganic contaminants (metals) in soil to leach into and impact ground water. A thorough program of soil sampling and SPLP analysis is recommended at the SASDA, to determine if pollutants remain at levels in excess of Connecticut's Pollutant Mobility Criteria. Once this additional information is available, EPA, DEP and the Navy can evaluate whether any additional remedial action is warranted. If additional soil samples for SPLP analysis are not collected to establish otherwise, the existing TCLP data indicates remediation of the release at the SASDA is incomplete, and further (final) remedial action is required. There is also a possibility that the SPLP analysis of additional soil samples could still yield results that exceed the Pollutant Mobility Criteria.

Due to the controversy over the interpretation of Connecticut's Remediation Standard Regulations as ARARs, and language in the FFA that preserves Connecticut's right to maintain an action under CERCLA § 121 (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, any decision on remedial action (or no action, if appropriate) for the SASDA should be documented in a ROD rather than in some other form of a decision document.

It is my hope that the Navy, EPA, and DEP will be able to resolve this issue in a manner acceptable to all parties through a conference call scheduled for 1:30 p.m. on Thursday, October 24, 1996. This call is to include the agency project managers, management, and legal counsel in discussions on the appropriate course of action at the SASDA. This letter is not intended to circumvent any of the dispute resolution processes in the FFA, it is only meant to provide you with my perspective on this issue. If you have any questions, please call me at (860) 424-3766.

Sincerely,



Christine Lacas

Federal Remediation Program

Permitting, Enforcement & Remediation Div.

CT Department of Environmental Protection