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September 12, 2006

Mr. Garwin Eng
Virginia Department of Environmental Quality
629 Main Street
Richmond, VA 23219

Subject: **Response to VDEQ Letter dated July 21, 2006 on the Draft Engineering Evaluation/Cost Analysis for Site 23, the Building LP-20 Plating Shop, Naval Station Norfolk, Norfolk, VA**

Dear Mr. Eng:

This is in response your letter dated July 21, 2006 concerning the Draft Engineering Evaluation/Cost Analysis (EE/CA) for Site 23, Building LP-20 Plating Shop located at Naval Station Norfolk. Based on a review of your letter, the Navy agrees that the regulatory oversight of this site shall be under the Virginia Department of Environmental Quality's Office of Remediation Program. Additionally, it is agreed that the alternative requirements of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) remedial action outlined in the Draft EE/CA will meet the Resource Conservation and Recovery Act closure performance standards of 40 CFR 265.111 (a) and (b). As requested by VDEQ, this language will be included in revised EE/CA, however, in Section 2.1.2, Site History.

However, based on a legal review of the regulations discussed in your letter, the following is provided:

- 40 CFR 265.90 (f) applies to regulated units. A "regulated unit," as per 40 CFR 264.90 (a)(2) and 9 VAC 20-60-265.18, is a surface impoundment, waste pile, land treatment unit, or landfill. As Site 23 did not contain any of the above, the Navy does not agree that Site 23 is a regulated unit, and therefore, 265.90 (f)(2) does not impose the corrective action requirements of 40 CFR 264.101 (a).
- Likewise, 40 CFR 270.1 (c)(7) does not apply to CERCLA-based clean-ups in which the Navy is lead agency. 270.1 (c)(7) contemplates situations in which EPA is lead agency, under which authority it may issue enforceable documents. At Site 23, neither EPA nor VDEQ has authority, unilaterally, to issue enforceable documents.

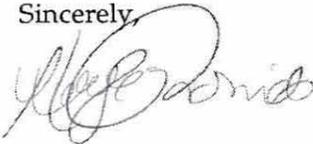
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- There is no 40 CFR 265.111 (d). And parenthetically, 265.90 (f) permits replacement of the requirements of subpart F only, not subparts F and G. Subpart G contains 265.111.

Therefore, the Navy does not believe that the requirements of 40 CFR 264.101(a) apply to this onsite CERCLA response action and no additional changes will be made to the revised EE/CA.

If you questions or comments concerning this issue, please contact Winoma Johnson at (757) 444-3418.

Sincerely,

A handwritten signature in black ink, appearing to read "Holly Rosnick". The signature is written in a cursive style with a large, looping initial "H".

Holly Rosnick/CH2M HILL

c: Winoma Johnson/NAVFAC MIDLANT