



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION I
JOHN F. KENNEDY FEDERAL BUILDING
BOSTON, MASSACHUSETTS 02203-0001

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NSY PORTSMOUTH
5090.3a

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

November 21, 1995

Capt. Carl Strawbridge, USN
Shipyard Commander
Portsmouth Naval Shipyard
Portsmouth, NH 03803-5000

Re: Federal Facility Agreement for
Portsmouth Naval Shipyard
National Priority List Superfund Site

Dear Captain Strawbridge:

The United States Environmental Protection Agency (EPA) has identified releases or threatened releases of hazardous substances, pollutants or contaminants at the Portsmouth Naval Shipyard in Kittery, Maine (PNS) which has been listed as a National Priority List (NPL) site. PNS is a Federal facility which is owned and operated by the U.S. Department of the Navy (Navy). Therefore, pursuant to Section 120 of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), the Navy is ultimately responsible for addressing releases or threatened releases of hazardous substances, pollutants or contaminants at or from the PNS NPL site ("Site").

This letter serves to notify the Navy that EPA is prepared to negotiate a Federal Facility Agreement (FFA) to formally establish that the Navy will investigate and control the releases or threatened releases of hazardous substances, pollutants or contaminants at or from the Site pursuant to CERCLA. While the Navy is responsible for addressing the releases or threatened releases pursuant to CERCLA, EPA intends to oversee and evaluate the Remedial Investigation/Feasibility Study (RI/FS) phases, as part of the CERCLA remedy selection process, and the Remedial Design and Remedial Action phases of the response action at the Site. The FFA (see EPA draft enclosed) will be developed under Section 120 of CERCLA and will reflect the commitment of the Navy to conduct and complete the RI/FS and any remedial action needed at the Site in accordance with CERCLA, as amended, the National Contingency Plan (NCP) and appropriate EPA guidance.



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EPA has determined that establishing a pre-defined period of time for negotiation of an FFA will facilitate its development with the Navy and will ultimately serve to expedite remedial actions at the Site. Therefore, this letter serves as "special notice" pursuant to Section 122(e)(1) of CERCLA, as amended, of EPA's intent to conduct negotiations with the Navy and the State of Maine for development of an FFA.

By this special notice, EPA hereby establishes a ninety (90) day period for negotiation of the FFA. If at the end of the ninety (90) day period an FFA is not successfully negotiated between EPA, the Navy and the State, EPA may, where appropriate, extend the negotiation period for an additional thirty (30) days. If, at the end of the ninety (90) day period (or the one-hundred and twenty (120) day period, where extended by EPA), an FFA is not successfully negotiated, EPA may issue an order to the Navy pursuant to Section 106 of CERCLA, with the concurrence of the Department of Justice, for the conduct of the required work. Where State participation in the FFA cannot be achieved within the ninety (90) day period (or one hundred and twenty (120) day period, where extended by EPA), prior to EPA's issuance of an order under Section 106 of CERCLA, EPA may, as appropriate, attempt to negotiate a two-party FFA with the Navy. This two-party option does not serve as a limitation on EPA's discretion to develop and issue an order under Section 106 of CERCLA.

In response to this special notice, please provide EPA with a letter indicating:

- the address and telephone number of the Navy's official for EPA to utilize as a point of contact; and
- a statement of the Navy's willingness to negotiate an FFA for the Site.

Should such a letter not be received by EPA within fourteen (14) days of your receipt of this letter, or should the negotiation deadline pass without successful negotiation of an FFA, EPA will consider the period of negotiations closed. EPA will then have the option of issuing an order under Section 106 of CERCLA, proceeding under other statutory authority, or proceeding with any appropriate off-Site response using Superfund monies.

If you are already involved in discussions with the State or local authorities, engaged in voluntary action, or involved in a lawsuit regarding this Site, you should not interpret this letter to advise or direct you to restrict or discontinue any such activities. Please provide a copy of your response letter to any other party involved in those discussions. You should also be aware that EPA will not delete the Site from the NPL until all

necessary remedial work has been concluded in accordance with CERCLA and the NCP.

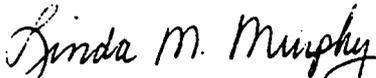
Your letter to EPA should be addressed to:

Ms. Meghan Cassidy
Remedial Project Manager
U.S. Environmental Protection Agency
JFK Federal Building
Mail Code: HAN-CAN1
Boston, MA 02203

EPA acknowledges the ongoing effort at PNS under the existing RCRA Corrective Action Permit. We also appreciate the Navy's cooperation over the past several months during the transition from the RCRA program to the CERCLA program. This FFA, once effective, will supercede the existing permit.

If you have any questions, please contact Meghan Cassidy, Remedial Project Manager, at (617) 573-5785. Legal questions should be addressed to Joan Miles, Assistant Regional Counsel, at (617) 565-3699.

Sincerely,



Linda M. Murphy, Director
Office of Site Remediation and Restoration

Enclosure

cc: See Attached List

List of Recipients

Robert B. Pirie, Jr.
Assistant Secretary of the Navy
(Installations & Environment)

David Olson
Director, Environmental Protection, Safety and
Occupational Health Division
Department of the Navy

W.A. Quade
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