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LETTER REGARDING 11 NOVEMBER 1989 NEWSPAPER ARTICLE ENTITLED "DER
CONSIDERS SUIT AGAINST MAYPORT BASE" NS MAYPORT FL
11/15/1989
HOUSE OF REPRESENTATIVES

CHARLES E. BENNETT
MEMBER
3D DISTRICT, FLORIDA

32228-000
14.01.00.0003

Congress of the
House of Representatives
Washington, DC 20515

November 15, 1989

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DEAN OF FLORIDA CONGRESSIONAL
DELEGATION

Captain Peter A. C. Long, USN
Commanding Officer
Naval Station
Mayport, Florida 32228-5000

Dear Captain Long:

I read the enclosed November 11 article and I am not sure what needs to be done or what can be done. Is there something that I can help with in regard to this matter? Any input that you can give to me that would be helpful would be appreciated.

With kindest regards, I am

Sincerely,

Charles E. Bennett
Charles E. Bennett

CEB:des
Enclosure

The Florida Times-Union, Jacksonville, Saturday, November 11, 1989

DER considers suit against Mayport base

By Gray Thomas
Staff writer

Florida officials have taken the first steps to have Mayport Naval Station punished in court for environmental violations.

The Navy has resisted proposed alternatives to fines, state Department of Environmental Regulation officials say. Now the agency has given the case to its lawyers to seek a court order to correct the environmental problems at Mayport.

"The main problem is the violations are recurring," said Ashwin Patel, DER hazardous waste supervisor in Jacksonville. "Every time we go out there, the problems are the same again and again."

Violations include the improper storage of hazardous materials, but the Navy says the problems have been taken care of.

More well-known and longstanding problems with hazardous waste disposal at Jacksonville and Cecil Field naval air stations are covered by state and federal cleanup agreements, and Patel said only occasional, minor violations are found at the two Westside bases.

But at Mayport, the Navy proposed an agreement without fines or donated work to settle a DER citation, said Cmdr. Tim Taylor, a base spokesman.

The resistance at Mayport has led DER to refer the matter to its general counsel, seeking a court order to correct the violations and prevent them in the future, said Ernie Frey, DER deputy assistant secretary in Jacksonville.

The agency lawyers will assess whether a suit against the federal

government has any greater chance of success than prior cases against the federal government that languished in the courts.

Since a May directive from DER Secretary Dale Twachtmann, the state has sought "in-kind" contributions from federal agencies that routinely refuse to pay fines to the state and have stalled attempts to impose fines through the courts.

Alternatives available for settlements under Twachtmann's May memo include actions or programs "to do something that would benefit the environment" beyond correcting a violation, Frey said.

For instance, a federal agency might satisfy the DER by providing additional training in waste handling for its staff at an expense greater than the proposed state fine, Twachtmann said.

In August, the Navy told the DER that federal law and policy prevented "an agreement that includes cash or in-kind civil penalties" at Mayport, Taylor said.

But the Navy tries to comply with states' environmental policies and has kept "a good relationship" with the DER in trying to settle the dispute, Taylor said.

Violations at Mayport include improper storage and labeling of hazardous materials, inadequate training for workers handling the substances, a lack of regular inspections and storage of some materials not covered by DER permits, Patel said.

The base's state waste permit allowed handling of lead, but the presence of cadmium and chromium, as well as an apparent leak of

ethylene glycol, violated the permit conditions, Patel said. The materials result in part from stripping paint from ships.

Taylor said all violations had been corrected by the time the Navy responded to the DER in August, except for expanding the permit to include the substances omitted earlier.

Twachtmann said he allowed "in-kind" actions by environmental offenders as an alternative for DER field agents to counter federal agencies' refusal to pay fines.

"They say they are immune from paying fines," Twachtmann said. "If they don't want to give us the money in that way (fines), make them give us 1 1/2 times the money in in-kind work above and beyond fixing the problem. ... Curiously enough, these things get done."

Frey said the Navy has cooperated with state environmental enforcers in problems at other bases, particularly at Jacksonville and Cecil Field naval air stations. But the Mayport situation is different, he said.

"They were unwilling to settle for any in-kind settlement and were unwilling to settle for any kind of fine," he said.

"The violations cited at Mayport are much more major violations, and there are a lot more violations than at the other two bases (in Jacksonville)," Patel said.

"Mayport, like the other two bases, is trying to comply with the regulations, but they don't have enough manpower. But that doesn't give them any reason not to comply."

*we are very concerned about this
and we support your interest
Department of Defense
Spots of Fla. has disputed
Damage in kind, DE.*