



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION IV

345 COURTLAND STREET, N E  
ATLANTA, GEORGIA 30365

5/26/92

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NAS PENSACOLA  
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**MAY 18 1992**

**4WD-FFB**

Mr. James B. Malone, Jr., P.E.  
Manager, Installation Restoration  
Section - East Section  
Southern Division  
Naval Facilities Engineering Command  
2155 Eagle Drive  
Post Office Box 10068

**RE: RBQWSTS FOR EXTENSION TO START DATES FOR FIELD WORK AT  
PENSACOLA NAVAL AIR STATION, FLORIDA**

Dear Mr. Malone:

The purpose of this letter is to respond to your letter of April 26, 1992, in which you request an extension for the start date for field work relating to "Batches" 1, 3 and 4. To justify your request, you cite Section XXV, "Force Majeure," of the Federal Facilities Agreement ("FFA") dated October 23, 1990.

First, the Force Majeure provision of the FFA does not apply to this situation since the Navy has been appropriated sufficient funds by Congress for Installation Restoration Program/CERCLA activities at Pensacola Naval Air Station, Florida FY-92. The type of funding shortfalls at Southern Division or Pensacola NAS that you reference in your April 22, 1992, letter do not warrant invoking the Force Majeure provisions of the FFA as justification for failure to meet an enforceable deadline.

Second, EPA's concern centers on the submission of the Draft Remedial Investigation ("RI") Report which has an enforceable deadline, not the start of field work which is an interim goal and does not operate under an enforceable deadline. However, EPA recognizes that a late start for field work associated with the RI may impact the timely submission of the RI Report. EPA and State should be notified of any need for extension of time for the submission of RI as soon as possible. Moreover such a request must be accompanied by a sufficient justification in accordance with Section XXIV, "Extensions," of the FFA. Failure to submit a primary document by the enforceable deadline without a formal extension from EPA and the State may result in the assessment of stipulated penalties in accordance with the terms of the FFA.

EPA looks forward to discussing the management strategy for remedial investigations at Pensacola NAS at our next meeting. It is imperative that the parties discuss ways to minimize the impact that funding delays and shortfalls could have on remedial activities, including the possibility of identifying those in-house remedial activities that could be accomplished without the use of contract funds.

If EPA can be of further assistance in this matter, please contact me or Mickey Hartnett, Chief, DoD Remedial Section, at (404) 347-3016. If you have any questions concerning the applicability of the Force Majeure provisions of the FFA, please contact Mary D. Ardoff, Assistant Regional Counsel, at (404) 347-2641 (extension 2244).

Sincerely,



Allison W. Drew, RPM  
DoD Remedial Section  
Federal Facilities Branch

cc: Eric Nuzie, FDER  
Ron Joyner, Pensacola NAS  
Ray Goldstein, NAVFACENGCOM-OGC