



UNITED STATES ENVIRONMENTAL PROTE

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REGION IV

345 COURTLAND STREET, N.E.
ATLANTA, GEORGIA 30365

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NAS PENSACOLA
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CERTIFIED MAIL . RETURN RECEIPT REQUESTED

Ms. Linda Martin
Remedial Activities Branch
Department of the Navy - Southern Division
Naval Facilities Engineering Command
2155 Eagle Drive
Charleston, South Carolina 29411-0068

Re: Revised Draft FY93 Site Management Plan (SMP) (11/12/92
version)
Naval Air Station (NAS) Pensacola, Florida

Dear Ms. Martin:

EPA is in receipt of the Navy's letter dated December 18, 1992, regarding revision of the FY93 SMP for NAS Pensacola. The Navy's response fails to address EPA's concerns as stated in this Agency's letter dated December 8, 1992. Therefore, the Navy and EPA have "[failed] to agree by December 1st on the proposed schedules and work priorities for the Site". Thus, in accordance with Section XXIII (Deadlines) of the Federal Facilities Agreement (FFA), this issue is automatically elevated to dispute resolution. EPA's technical and factual justifications for the specific issues under dispute have been presented to the Navy in previous correspondence (dated October 6, 1992).

EPA's earlier proposal to postpone the mandatory deadline for submittal of an acceptable SMP by 17 days (or until December 17, 1992) was solely in order to give this Agency adequate time (i.e. 30 days from receipt) to evaluate the Navy's revised FY93 SMP. Given the Navy's failure to submit either an acceptable FY93 SMP or adequate legal, technical and factual justification for failing to address EPA's concerns as stated in EPA's letter dated December 8, 1992, the Navy must submit in writing the required justification for its position within 30 days of receipt of this letter in accordance with Section XXVI (Resolution of Disputes) of the FFA.

The Parties may agree to meet at any time within this 30 day period in an effort to informally resolve the issues under dispute prior to the meeting of the Dispute Resolution Committee (DRC). If the Parties fail to resolve this dispute by the end of the 30 day period, the matter will be immediately elevated to formal dispute resolution. EPA's Waste Management Division (WMD) Director, Joseph Franzmathes, has delegated to James Kutzman, Director, Office of RCRA and Federal Facilities, the authority to

represent this Agency on the Dispute Resolution Committee (DRC). EPA requests that the Navy provide the Parties with its DRC representative at its earliest convenience.

The issues under dispute, and the Agency's position on these issues is restated briefly as follows:

1. The Navy has already agreed to upgrade PSCs 12, 13, 14 and 24 in previously approved RI/FS Work Plans. Therefore, the FY93 must be revised to include enforceable schedules for these four sites. Furthermore, the decision to upgrade any site from screening to RI/FS status is a regulatory decision. Pursuant to Section 120 of CERCLA as amended, it is the responsibility of the EPA Administrator to evaluate the results of the Preliminary Assessment/Site Inspection (PA/SI) conducted for each site in order to determine whether it should be assigned NPL status, thereby requiring initiation of an RI/FS within 6 months.

2. The Phase I results for PSC 36 clearly identified several areas of significant contamination along the sewer line. These areas must be addressed through an RI/FS. If the identified contamination corresponds geographically with another PSC, then the RI/FS conducted shall be for both Site 36 and that additional PSC. As has already been recommended by the Navy, technical discussions/meetings should be held in order to confirm those portions of Site 36 to be targeted for RI/FS work. In addition, due to the inconclusive nature of the screening level data which was collected for this site, further investigation of the remainder of PSC 36 is still needed in order to confirm that (i) other areas of contamination do not exist along the sewer line and (ii) the sewer line is not, in fact, currently leaking and serving as an ongoing source of contamination. Evaluation of these later results may subsequently reopen the screening status of other portions of PSC 36 for discussion.

3. The current FY93 schedules must be revised to include enforceable schedules for the submittal, review, and approval of a primary document for each Operable Unit which will satisfy the requirements to complete a risk assessment as set forth in the NCP. The Navy's refusal to submit the primary document entitled Risk Assessments Report, places the Navy in direct violation of Section VIII. ~~-(consultation with U.S. EPA and EDER)~~ and Section XXIII.B. (Deadlines) of the FFA. The submission of the Baseline Risk Assessment as required by the NCP is intended to meet this requirement. The secondary document which the Navy is confusing with the Baseline Risk Assessment is the Preliminary Risk Assessment Report.

As has already been discussed and agreed to by the Parties, EPA looks forward to the meeting scheduled for February 3-4, 1993 at which the Parties shall attempt to resolve the above issues prior

to the formal DRC meeting. In the interests of assuring the productiveness of the discussions on PSC 36, EPA also looks forward to receiving and reviewing the Navy's forthcoming **updated** summary and evaluation of available results for this site prior to the February 3-4, 1992 meeting. Should you have any legal questions regarding these matters, please contact Mary **Ardiff** at 404/347-3777. Should you have any technical or project management concerns, please contact me at **404/347-3016**.

Sincerely yours,



Allison W. Drew, RPM
Department of Defense Remedial Section
Federal Facilities Branch

cc: Ron Joyner, NAS, Pensacola
James Malone, SOUTHNAVFACENGCOM
Eric Nuzie, FDER