



DEPARTMENT OF THE NAVY
SOUTHWEST DIVISION
NAVAL FACILITIES ENGINEERING COMMAND
1220 PACIFIC HIGHWAY
SAN DIEGO, CA 92132-5190

N00217.000630
HUNTERS POINT
SSIC NO. 5090.3

5090
Ser 06CH.KF/0769
August 8, 2002

Mr. Michael Work (SFD 8-3)
U.S. Environmental Protection Agency
Region IX
75 Hawthorne Street
San Francisco, CA 94105-3901

Mr. Chein Kao
Department of Toxic Substances Control
700 Heinz Avenue, Suite 200
Berkeley, CA 94710

Mr. Michael Rochette
California Regional Quality Control Board
San Francisco Bay Region
1515 Clay Street, #1400
Oakland, CA 94612

Dear BCT Members:

As a result of the formal dispute between the Navy and the Regulatory Agencies, the Navy has agreed to prepare a detailed plan of action to minimize the frequency of and the potential impact from any brush or debris fires at the former Hunters Point Naval Shipyard.

The Navy has already developed and implemented an expedited notification procedure that the Navy has implemented as a result of the landfill fire. The Navy will supplement that procedure with an installation-wide brush and debris management program. This program is beyond any CERCLA requirements and will benefit the community by lowering risks of all fires within the Shipyard and benefit the City by reducing the instances of City fire protection support to Hunters Point.

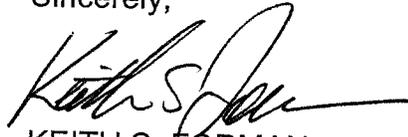
As agreed, the Navy will provide a detailed work plan (including scope of the program, schedule, and cost estimate) for implementation of the brush and debris management program to the BRAC Cleanup Team (BCT) no later than 90 days after the signing of this consensus statement.

Once concurrence by the BCT is reached, the Navy will brief the work plan and distribute it to the Hunters Point Restoration Advisory Board, as representatives of the local community, for additional input.

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Should you have any concerns with this matter, please contact the undersigned at (619) 532-0913.

Sincerely,



KEITH S. FORMAN
BRAC Environmental Coordinator
By direction of the Commander

Encl: 1. Consensus Statement by the Dispute Resolution Committee for Resolving Hunters Point Dispute on Landfill Fire, Hunters Point Naval Shipyard, California

Consensus Statement by the Dispute Resolution Committee for Resolving Hunters Point Dispute on Landfill Fire Stipulated Penalties

A. Background

On August 16, 2000, the Federal Fire Department was notified by base security at the Hunters Point Shipyard that a brush fire was burning on the Parcel E landfill. After the initial fire was put out, the Federal Fire Department continued to respond to the site due to hot spots continuing to smolder under the ground. Some areas of the landfill continued to smolder for several weeks.

The Navy did not notify EPA and the other regulators of the fire until August 31, 2000.

On October 19, 2000, EPA sent the Navy a formal request for information regarding the fire at the landfill. On November 20, 2000, the Navy responded to the EPA request.

Based on the Navy response and other relevant information, EPA, in consultation with the State of California, sent a letter to the Navy on June 7, 2001. The letter indicated the regulatory agencies' intent to assess stipulated penalties under the Hunter's Point Federal Facility Agreement (FFA) for failure to provide timely notification to the other parties of a potential endangerment to public health.

On July 5, 2001, the Navy notified the other FFA parties of their intent to invoke informal dispute over the stipulated penalties assessment.

The informal dispute process was unsuccessful, and on August 31, 2000, the Navy officially invoked the formal dispute process. Under the FFA formal dispute resolution process, the issue was raised to the Dispute Resolution Committee (DRC) for resolution.

B. Basis of Dispute

1. **Regulatory Position.** The regulatory agencies believe that the Navy failed to immediately notify the FFA parties of a situation that may have presented an endangerment to public health as required by Section 11.1 of the FFA. The regulatory agencies believe that the failure to comply with this requirement subjects the Navy to stipulated penalties under Section 14.1 of the FFA.

2. **Navy Position.** Navy disagrees with the regulatory position and believes that Section 11.1 and Section 14.1 of the FFA read together do not provide a basis for the imposition of stipulated penalties.

C. Agreement

The DRC members disagree on whether or not stipulated penalties may be imposed under the FFA for the landfill fire. However the DRC members agree on the following:

1. Navy failed to provide timely notification of the Landfill fire to the regulatory agencies as required by the FFA.
2. Navy agrees that all future releases or potential releases will follow an expedited notification procedure that the Navy has implemented as a result of the landfill fire.
3. The Navy will supplement the notification procedure with an installation-wide brush and debris management program.

D. Failure to Implement

If the Navy fails to implement any of the elements of the agreement in Paragraph C above, the regulatory agencies reserve the right to re-initiate the formal dispute process to resolve the issue.

Signatures of DRC Members

CHRIS KOTAS
Environmental Business Line Manager
Southwest Division
Naval Facilities Engineering Command

Date

DEBORAH JORDAN
Chief, Federal Facility and Site
Cleanup Branch, EPA Region IX

Date

ANTHONY LANDIS
Chief, Northern California Operations
Office of Military Facilities
Department of Toxic Substances Control

Date