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NIROP FRIDLEY  
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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5  
77 WEST JACKSON BOULEVARD  
CHICAGO, IL 60604-3590

June 2, 1995

REPLY TO THE ATTENTION OF:

Mr. Sidney L. Allison  
Department of the Navy  
Southern Division  
Naval Facilities Engineering Command  
P.O. Box 190010  
2155 Eagle Drive  
North Charleston, South Carolina 29419-9010

Re: NIROP Fridley - Dispute Resolution

Dear Sid:

This is in response to your letter of May 15, 1995. Let me begin by expressing disappointment in the Navy's reluctance to explain how it calculated its settlement offer in writing. Your letter leaves us no wiser than we were before as to how the Navy arrived at \$130,000 as a settlement figure. You suggest that this will be made clear in face-to-face negotiations. In the interest of making face-to-face meetings as efficient as possible, we had hoped that we would get an explanation in advance of any such negotiations.

*NAVFAC letter*

*suppl. env. proj.*

EPA and MPCA are willing to make one last effort to resolve matters through informal dispute resolution. I understand that Tim Thurlow has spoken to Steve Beverly about the possibility of a meeting in St. Paul on June 15, and that Steve mentioned the Navy may wish to present new ideas for a SEP, based on EPA's revised SEP policy. I appreciate your offer to host a meeting in Charleston. At this time, however, I feel it is important that we establish a better understanding of the technical problems that we are faced with at this site. Therefore I propose that:

1. We take an extra day and visit the site on June 14 and then meet at the MPCA office during the morning of June 15, 1995.
2. The Navy should present a cash penalty offer of at least \$130,000, and should fully explain the basis for the figure offered. (We would still prefer to receive an explanation in advance of the June meeting.)
3. EPA and MPCA will consider a SEP related to expediting work at NIROP in lieu of demanding penalties in excess of \$130,000. Specifically, EPA and MPCA would be interested in a SEP under which the Navy would complete the RI for OU3 and deliver the RI Report by December 31, 1996. If the Navy rejects this proposed SEP, the Navy should propose an alternative at the June 15 meeting. The proposed SEP should be in the \$300,000 - \$400,000

range. Note that under EPA's SEP policy, the Navy must agree to fixed stipulated penalties for failure to perform the SEP as required.

4. While EPA and MPCA are willing to consider a SEP, it is not without some misgiving. We are still not convinced that the management of the NIROP cleanup is on a firm footing. To do the work required at NIROP on time, let alone to expedite it, South Div needs to have a capable management team and adequate management resources devoted to the site. The last thing anyone wants is to set up the Navy to fail again, resulting in additional enforcement actions. To avoid this outcome, the Navy must identify the source of the problem that caused the original noncompliance with the FFA, and come up with a plan to correct it. The Navy should be prepared to talk about this on June 15. This is perhaps the point at which "partnering" would make sense. That is, it would be beneficial to have your involvement and Joe McCauley's in exploring ways to improve performance and avoid problems at NIROP. Your presence at the June 14 site visit and the June 15 meeting might also facilitate "buy-in" by Navy management on any plan of action which the negotiators develop. We hope the end result would be that we could get this enforcement action behind us and feel confident that there will be no repetitions.

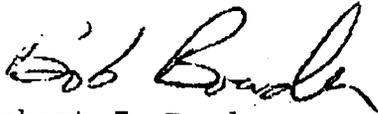
*EPA letter*

5. The Navy should be prepared to abide by the conditions specified in my letter to you of January 27, 1995. That is, the Navy should agree to include the four requirements listed on page 2 of my letter in a final order attached to the eventual settlement agreement, or in a modification to the FFA.

In closing, let me advise you that EPA and MPCA consider the June 15 meeting to be a crucial one. I do hope that you and Joe can make time to attend. If sufficient progress is not made at this meeting, we intend to elevate this matter to formal dispute resolution, pursuant to the FFA.

I look forward to hearing from you at your earliest convenience. Please call me at (312) 353-5503 if you have any questions.

Sincerely yours,



Robert J. Bowden  
Senior Project Manager  
Office of Superfund

cc: Gary Eddy, MPCA  
David Douglas, MPCA  
Steven Shakman, MN AG  
Jocelyn Olson, MN AG  
Stephen Beverly, USN