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LETTER AND COMMENTS FROM VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY  
ON RESPONSE TO COMMENTS REGARDING DRAFT FEASIBILITY STUDY SITE 11A JEB  
LITTLE CREEK VA  
06/01/2011  
VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY



# COMMONWEALTH of VIRGINIA

## DEPARTMENT OF ENVIRONMENTAL QUALITY

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June 1, 2011

Mr. Bryan Peed  
NAVFAC Mid Atlantic  
9742 Maryland Avenue  
Code OPHREV4, Bldg. N-26, Rm.3300  
Norfolk, Virginia 23511-3095

Subject: Join Expeditionary Base Little Creek – Fort Story  
*Response to Comments - Draft Feasibility Study*  
*Site 11a, Building 3033 Former Vehicle Repair Facility and Waste Oil Tank*

Dear Mr. Peed:

The Virginia Department of Environmental Quality (VDEQ), Office of Federal Facilities Restoration has reviewed the *Response to Comments - Draft Feasibility Study for IR Site 11a, Building 3033 Former Vehicle Repair Facility and Waste Oil Tank* received via email dated May 24, 2011. VDEQ offers the following additional comments concerning the ARARs tables found in Appendix C. For clarity, where additional VDEQ comment is provided each original comment and response is included. If a VDEQ comment and/or Navy response is not restated below, the response provided by the Navy adequately addressed the comment.

1. General Response to ARARs Comments: "Those ARARs determined to be "TBC" or "Not Applicable" have been removed from the tables."

*VDEQ Response: It is acceptable and appropriate to include "TBC" ARARs in a FS document. Please explain why the Navy feels "TBC" ARARs should be removed from this FS.*

2. VDEQ Comment #15- Appendix C, Table C-3 Federal Location Specific ARARs:

Coastal Zone Management Act – VDEQ does not agree that Site 11a is excluded from the coastal zone management act as exempt lands. VDEQ suggest that this regulation be changed to Relevant and Appropriate with the following proposed language located in the Comment section. "If activities at Site 11(a) affect Virginia's coastal zone, the activities will be consistent to the maximum extent practicable with Virginia's enforceable policies."

**Response:** ARARs are developed only for actions that occur within the site boundaries. Site 11a is land owned and controlled by the federal government and is therefore excluded from the coastal zone by definition [16 U.S.C. § 1453(1)]. Based on this, the Coastal Zone Management Act is neither applicable nor relevant and appropriate for this action. ARAR has been removed from the Table.

*VDEQ Response: Effective January 8, 2001, the National Oceanic and Atmospheric Administration (NOAA) revised the regulations implementing the federal consistency provisions of the Coastal Zone Management Act (CZMA) of 1972.*

*The revisions were necessary based on new provisions in the 1990 Coastal Zone Act Reauthorization Amendments (CZARA) and the 1996 Coastal Zone Protection Act. Among the amendments were revisions to the federal consistency requirement contained in section 307 of the CZMA. Specifically, 16 U.S.C. § 1456, clarified that all federal agency activities meeting the "effects" standard are subject to CZMA consistency and that there are no exceptions, exclusions or categorical exemptions from the requirement. Therefore, VDEQ requests that the Coastal Zone Management Act be included as a Federal Location Specific ARAR.*

3. VDEQ Comment #16 - Appendix C, Table C-4 Virginia Location Specific ARARs:

Endangered Species – While no threatened and endangered species have been found on the site, those species have been found in the vicinity of the site and could forage on the site's grassy areas. Please change the ARAR determination to "Relevant and Appropriate".

**Response:** Endangered species are not present at the site; therefore, this requirement is neither applicable nor relevant and appropriate. ARAR has been removed from the Table.

Endangered Plant and Insect Species – While no threatened and endangered plant and insect species have been found at the site, those species have been found in the vicinity of the site may become established in the site's vegetated areas. Please change the ARAR determination to "Relevant and Appropriate".

**Response:** Endangered species are not present at the site; therefore, this requirement is neither applicable nor relevant and appropriate. ARAR has been removed from the Table.

*VDEQ Response: VDEQ requests that the Navy provide additional information such as letters from the Virginia's Department of Game and Inland Fisheries and Department of Agriculture and Human Services which substantiate the claim that no Virginia threatened or endangered species are present or have the potential to be present at the site.*

4. VDEQ Comment #18 – Appendix C, Table C-6 Virginia Action Specific ARARs:

Virginia Waste Management Act – The "Solid Waste Management Regulations portion of the "Citation" entry has been repealed. The new citation is 9 VAC 20-81-40 (B)(C), 90, 95, 100.C.

**Response:** Comment noted. The current ARAR has been revised as follows:

- Action: "Staging of solid waste onsite in containers"

- Requirement: "Establishes criteria for the proper management of solid wastes."
- Prerequisite: "Management of solid wastes onsite in containers"
- Citation: "Solid Waste Management Regulations, 9 VAC 20-81-45(B) only as it incorporates 40 CFR 257.3"
- Technology: "2,3,4"
- ARAR Determination: "Applicable"
- Comment: "These remedial actions will generate wastes which will be characterized for offsite disposal. Based on site history, all wastes are expected to be characterized as non-hazardous."

*VDEQ Response: DEQ requests the Navy provide further information behind their rationale for selecting: 9 VAC 20-81-45(B) only and subsequently removing: 9 VAC 20-81-40(B)(C), 90, and 100 (C) from the Virginia Action Specific ARAR table.*

This concludes VDEQ's follow-up comments concerning this document at this time. If you have any questions concerning these comments, please give me a call at (804) 698-4464.

Sincerely,



Paul E. Herman, P.E.  
Remediation Project Manager

cc: NABLC Tier 1 (electronic copy)  
NABLC Correspondence File  
Michelle Hollis, VDEQ Waste Division-ORP (electronic copy)  
Milt Johnston, VDEQ-TRO (electronic copy)