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LETTER AND COMMENTS FROM U S EPA REGION 1 REGARDING REVIEW OF DRAFT
FEASIBILITY STUDY SITE 8 DISPOSAL AREA NS NEWPORT RI
11/22/2010
U S EPA REGION 1



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 1
5 POST OFFICE SQUARE, SUITE 100
BOSTON, MASSACHUSETTS 02109-3912

November 22, 2010

Edward J. Corack, P.E.
Remedial Project Manager
NAVFAC MIDLANT
Northeast IPT, Code OPTE3-EC
9742 Maryland Avenue
Norfolk, VA 23511

Re: Draft Feasibility Study
Site 08, NUSC Disposal Area RI/FS
NAVSTA Newport, Rhode Island

Dear Mr. Corack:

On October 18, 2010, EPA submitted comments on the "Draft Feasibility Study for Site 08, NUSC Disposal Area," dated August 2010, as prepared by Tetra Tech NUS, Inc., on behalf of Naval Station Newport, RI. As noted in my email of October 26, 2010, EPA was unable to include comments on the ARARs tables in our October 18, 2010 comments. EPA has completed its review of the ARARs tables included in the Draft FS and our detailed comments on the ARARs tables are attached. Please consider these additional EPA comments in the preparation of the Revised Draft FS.

If you have any questions, please contact me at (617) 918-1754 or at lombardo.ginny@epa.gov.

Sincerely,

A handwritten signature in black ink that reads "Ginny Lombardo".

Ginny Lombardo
Remedial Project Manager

Attachment

cc: Gary Jablonski, RI DEM
Cornelia Mueller, NAVSTA Newport
James Forreli, TtNUS
Stephen Parker, TtNUS
Chau Vu, EPA
Bart Hoskins, EPA
Todd Finlayson, Gannett Fleming
David Peterson, EPA

**EPA Comments on
Draft Feasibility Study for
Site 8 – Naval Undersea Systems Center (NUSC) Disposal Area
August 2010**

1. Table 2-1, p.1: Add the following federal ARARs and TBCs:

<p>Safe Drinking Water Act (42 U.S.C. §300f <i>et seq.</i>); National primary drinking water regulations (40 C.F.R. Part 141, Subpart B and G)</p>	<p>Relevant and Appropriate</p>	<p>Establishes maximum contaminant levels (MCLs) for common organic and inorganic contaminants applicable to public drinking water supplies. Used as relevant and appropriate cleanup standards for aquifers and surface water bodies that are potential drinking water sources.</p>	<p>Under federal standards, groundwater within the Site that is outside the compliance boundary of any waste management unit for the Site's contaminated soil/sediment is considered a potential drinking water source and therefore groundwater must achieve these standards. Groundwater use restrictions will be maintained until these standards are achieved. Within the compliance boundary for any waste management unit these are used as monitoring standards.</p>
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<p>Safe Drinking Water Act (42 U.S.C. §300f et seq.); National primary drinking water regulations (40 C.F.R. Part 141, Subpart F)</p>	<p>Relevant and Appropriate for non-zero MCLGs; MCLGs set at zero are To Be Considered</p>	<p>Establishes maximum contaminant level goals (MCLGs) for public water supplies. MCLGs are health goals for drinking water sources. These unenforceable health goals are available for a number of organic and inorganic compounds.</p>	<p>Under federal standards, groundwater within the Site that is outside the compliance boundary of any waste management unit for the Site's contaminated soil/sediment is considered a potential drinking water source and therefore groundwater must achieve these standards. Groundwater use restrictions will be maintained until these standards are achieved. Within the compliance boundary for any waste management unit these are used as monitoring standards.</p>
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<p>Clean Water Act, National Recommended Water Quality Criteria (NRWQC), 33 USC 1251 <i>et seq.</i>; 40 CFR § 122.44</p>	<p>Relevant and Appropriate</p>	<p>Used to establish water quality standards for the protection of aquatic life. Used to develop sediment cleanup standards.</p>	<p>Sediment alternatives will address contaminated sediments that exceed standards developed under these regulations. Water quality monitoring would be conducted to ensure that these criteria are not exceeded during excavation/dredging activities.</p>
<p>OSWER Draft Guidance for Evaluating the Vapor Intrusion to Indoor Air Pathway from Groundwater and Soils (Subsurface Vapor Intrusion Guidance) EPA530-D-02-004 (November 2002)</p>	<p>To be Considered</p>	<p>Guidance for assessing and mitigating vapor intrusion risk.</p>	<p>Assessment and mitigation of potential vapor intrusion risks will be conducted in accordance with this guidance.</p>

<p>Health Advisories (EPA Office of Drinking Water)</p>	<p>To be Considered</p>	<p>Health Advisories are estimates of risk due to consumption of contaminated drinking water; they consider non-carcinogenic effects only. To be considered for contaminants in groundwater that may be used for drinking water where the standard is more conservative than either federal or state statutory or regulatory standards. The Health Advisory standard for manganese is 0.3 ppm.</p>	<p>Health advisories will be used to evaluate the non-carcinogenic risk resulting from exposure to certain compounds (e.g., manganese). The remedy will be designed to ultimately reduce contaminant levels in groundwater used for drinking water to levels that do not exceed advisory levels. Groundwater use restrictions will be maintained until these standards are achieved.</p>
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If federal ecological risk guidance was used to develop cleanup standards for contaminated sediment or soil cite in this Table as a TBC. If any guidance was utilized to develop fish consumption risk standard cite in this Table as a TBC.

2. Table 2-1, p. 2: In the Consideration text for the first row (RI Remediation Regs) add a new last sentence: "Also used to establish groundwater PRGs when these standards are more stringent than federal standards. Sets standards for establishing points of compliance for groundwater and soil and for instituting institutional controls."

Remove the second citation (redundant with the first).

3. Table 2-2, p. 1: Change the Requirement for Section 404 of the CWA to: "Section 404 (33 U.S.C. s 1344); Section 404 (b)(1) Guidelines for Specification of disposal sites for dredged or fill material (40 CFR Part 230, 231 and 33 C.F.R. Parts 320-323)." In the Synopsis section insert "federal jurisdictional" before "wetland" in the first sentence. In the Consideration Section in the first sentence remove "discharge of dredged material and/or" and insert "and filling of federal jurisdictional wetland resources" after "excavation." In the second sentence, replace "of dredged material" with "into wetland resource areas." Add a new last sentence: "The Navy will select a remedy that is the Least Environmentally Damaging Practicable Alternative for protecting wetland resource areas."

For the Fish and Wildlife Coordination Act Requirement text remove: “, Fish and Wildlife protection (40 C.F.R. 6.302(g))”. In the first sentence of the Consideration text remove “endangered species.”

Replace the “Protection of Wetlands” citation with:

Floodplain Management and Protection of Wetlands, 44 CFR 9	Relevant and Appropriate	FEMA regulations that set forth the policy, procedure and responsibilities to implement and enforce Executive Order 11988, Floodplain Management, and Executive Order 11990, Protection of Wetlands.	Remedial alternatives conducted within the 500-year floodplain or within federal jurisdictional wetlands will be implemented in compliance with these standards. The Navy will solicit public comment as part of the proposed plan on the measures taken through the remedial action to protect floodplain and wetland resources.
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Remove the federal Endangered Species Act.

Historic Preservation – Remove the first sentence of the Consideration text.

Add:

Coastal Zone Management Act, 16 U.S.C. Parts 1451 <i>et seq.</i>	Applicable	Requires that any actions must be conducted in a manner consistent with state-approved management programs.	The site is located within a coastal zone management area; therefore, applicable coastal zone management requirements need to be addressed.
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4. Table 2-2 p. 2: Remove the State Endangered Species citation.

Add:

Coastal Resources Management. RIGL 46-23-1 <i>et seq.</i> , Rules and Regulations Governing the Protection and Management of Freshwater Wetlands in	Applicable	Sets standards for management and protection of coastal resources. Freshwater wetlands in the vicinity of the coast are regulated under rules and regulations promulgated under the Act, rather than the Rhode Island Freshwater Wetlands Act. Jurisdiction includes	The site is located within a coastal zone management area; therefore, applicable coastal zone management requirements need to be addressed. These include standards for the freshwater wetland resources associated with the NUSC Pond and stream.
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the Vicinity of the Coast		areas within fifty feet of state jurisdictional wetlands, as well as riverbanks and floodplain. Rule 6.08 establishes standards for site remediation activities with wetland resource areas.	
Inspections of Dams and Reservoirs (RIGL 46-19), Rules and Regulations for Dam Safety	Applicable	Standards for inspecting and maintaining dams in Rhode Island.	The dam at the NUSC Pond will be maintained to prevent the release of contaminated sediment downstream and protect components of any sediment remedy that leaves contaminated sediment in place.

5. Table 2-3, p. 1: Revise the table title to correct the reference to Old Fire Fighting Training Area. Remove the citations for the Safe Drinking Water Act Maximum Contaminant Levels (MCLs) and Resource Conservation and Recovery Act (RCRA) Regulations, Standards for Identification and Listing of Hazardous Waste citations.
6. Table 2-3, p. 2: Remove all of the RCRA citations since RI has a delegated program - cite the State hazardous waste standards for listing and generation (and capping standards if any of the waste left in place exceeds hazardous waste threshold levels).

Add the following federal action-specific ARARs and TBCs:

Toxic Substances Control Act (TSCA); PCB Remediation Waste, 15 U.S.C. 2601 <i>et seq.</i> ; 40 CFR 761.61(c)	Applicable	This section of the TSCA regulations provides risk-based cleanup and disposal options for PCB remediation waste based on the ecological risks posed by the concentrations at which the PCBs are found. Written approval for the proposed risk-based cleanup must be obtained from the Director, Office of Site Remediation and Restoration, United States Environmental	This remedy includes a finding that the PCB cleanup level developed and any remedial measures taken that will result in PCB waste being left in place will meet TSCA risk-based standards and would not pose an unreasonable risk of injury to health or the environment. All PCB contaminated sediment exceeding the cleanup level will be excavated and disposed of at a licensed off-site disposal facility.
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		Protection Agency Region 1.	
Management of Undesirable Plants on Federal Lands, 7 U.S.C. 2814	Relevant and Appropriate	Requires federal agencies to establish integrated management systems to control or contain undesirable plant species on federal lands under the agency's jurisdiction.	Measures will be taken to control the establishment of undesirable plants in remediated wetlands and waterbodies. An invasive species control plan will be developed as part of the long-term O&M for this site.
RCRA Interim Status TSDF Standards – Chemical, Physical, and Biological Treatment, 40 CFR 265 Subpart Q	Relevant and Appropriate	The regulations in this subpart apply to the treatment of hazardous wastes by chemical, physical, or biological methods in other than tanks, surface impoundments, and land treatment facilities. Treatment reagents must not be placed in the treatment process or equipment if they could cause the treatment process or equipment to rupture, leak, corrode, or otherwise fail before the end of its intended life. Inspections are required to make sure treatment process is operating correctly.	In-situ treatment using bioremediation will be conducted in compliance with these standards regarding the handling and management of treatment chemicals.
CWA, Section 402, National Pollution Discharge Elimination System (NPDES), 33 U.S.C. 1342; 40 CFR 122 through 125	Applicable	These standards govern point source discharges of pollutants to surface water. Includes stormwater requirements for construction projects that disturb over one acre.	Standards for discharging of dewatering liquid or other water to surface waters at the site. The stormwater standards under these regulations will be met during any construction or maintenance activities.

<p>CWA, Underground Injection Control (UIC), 40 CFR 144,146, and 147.1100</p>	<p>Applicable</p>	<p>These regulations address the discharge of wastes, chemicals or other substances into the subsurface. The federal UIC program designates injection wells incidental to aquifer remediation and experimental technologies as Class V wells authorized by rule that do not require a separate UIC permit.</p>	<p>These standards regulate the injection of biological or chemical substance into the groundwater. In-situ treatment will be conducted in compliance with these standards.</p>
<p>Use of Monitored Natural Attenuation at Superfund, RCRA Corrective Action, and Underground Storage Tank Sites, OSWER Directive 9200.4-17P (April 21, 1999)</p>	<p>To be Considered</p>	<p>EPA guidance regarding the use of monitored natural attenuation for the cleanup of contaminated soil and groundwater. In particular, a reasonable time frame for achieving cleanup standard through monitored attenuation would be comparable to that which could be achieved through active restoration.</p>	<p>The monitored natural attenuation component of any alternative will only meet these standards if natural attenuation will attain all groundwater cleanup standards within a reasonable time frame.</p>
<p>Contaminated Sediment Remediation Guidance for Hazardous Waste Sites, OSWER 9355.0-85, (December 2005)</p>	<p>To be Considered</p>	<p>This document provides technical and policy guidance for making remedy decisions for contaminated sediment sites. Issues addressed include: Chapter 4, Monitored Natural Recovery; Chapter 5, In-situ Capping; Chapter 6, Dredging and Excavation; Chapter 7, Remedy Selection; and Chapter 8, Long-term Monitoring.</p>	<p>Sediment alternatives will be developed that meet these standards. In particular, any alternative including MNR will attain all sediment cleanup standards within a reasonable time frame.</p>

For the two State Air citations: In the Consideration text insert “/sediment” after “soil.”

7. Table 2-3, p. 3: The Navy may discuss with RIDEM whether the State would consider restricting fishing in the NUSC Pond through the State’s freshwater fishing regulations.

For the RI Pollution Discharge Elimination System Synopsis text add: “Rule 31 establishes standards for storm water discharges.” In the Consideration change the text to: “Discharge of water from remedial activities (including dewatering sediment/soil) to surface waters will meet these standards. Storm water controls for areas of construction/maintenance will be implemented and maintained to meet these standards.”

Add:

Water Pollution Control – Water Quality, RIGL 42-16 <i>et seq.</i> ; CRIR 12-190-001	Applicable	Establishes water use classification and water quality criteria for waters of the state.	Surface water concentrations will be compared against these criteria during monitoring of the implementation of the remedy, as well as during long-term monitoring events.
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Remove Hazardous Waste generator citation since redundant with citations for the Hazardous Waste regulations on pages 8-9.

8. Table 2-3 pp 3-8: Change the text to the RI Solid Waste regulations consistent with the text used in the final OFFTA ROD.
9. Table 2-3, p. 8: Remove RI Pollutant Discharge Elimination System citation (redundant with page 3).

Remove the ELUR citation (including in the RI Remediation Regulation citation in the chemical-specific table).

For the RI Hazardous Waste listing citation, in the Synopsis text add at the end: “including designated “Rhode Island Wastes” which are not included in the federal definition of hazardous waste.” In the Consideration text add at the end: “or meeting the definition of a Rhode Island Waste.”

10. Table 2-3, p. 9: Remove the citations for hazardous waste transporters, TSD facilities (unless an on-site facility is a component of an alternative) and LDR.

For the Underground Injection regulation Consideration text either define “EOS” or replace “of EOS” with “as a component of in-situ treatment.”

For the Well Standards change the Requirement text to: “Groundwater Quality Rules and Regulations, Well Standards – Appendix 1”

Add the following State action-specific ARARs and TBCs:

<p>Rules and Regulations for Dredging and the Management of Dredged Material, DEM-OWR-DR-02-03 (September 2010)</p>	<p>Relevant and Appropriate</p>	<p>These standards ensure that dredging and management of the associated dredged material is conducted in a manner which is protective of groundwater and surface water quality so as to ensure the continued viability and integrity of drinking water and fish and wildlife resources. Establish standards and criteria governing the dewatering of dredged material for beneficial use or disposal.</p>	<p>Sediment alternatives that involve dredging as a component of the remedial action will be developed so as to meet these standards.</p>
<p>Storm Drainage System Maintenance, RIGL 45-61.1</p>	<p>Relevant and Appropriate</p>	<p>Storm drainage systems prone to flooding or contributing significantly to storm water management problems shall be inspected at least once per year and maintained and cleaned as necessary in order to reduce the risks of flooding and ensure proper functioning of storm drain systems.</p>	<p>Storm drain systems created as part of the remedial alternatives will be maintained in compliance with these standards.</p>
<p>Identification and Management of Aquatic Invasive Species</p>	<p>To be Considered</p>	<p>Guidance on addressing aquatic invasive species in Rhode Island.</p>	<p>Remedial work in the NUSC Pond and stream will be conducted in a manner to prevent the establishment or spread of aquatic invasive species.</p>

11. Table 2-4, p. 1: In the Title change “Islane” to “Island.”

12. Table 2-5: Need to cite any non-zero MCLGs.

For manganese need to cite EPA risk-based level of 300 ug/L.

13. Table 3 tables: Make Tables' content consistent with any comments made on the text.

14. Tables 4-1 & 4-2: Make Tables' content consistent with any comments made on the text.

15. Tables 4-3 – 4-11: Make the ARARs tables consistent to the comments made on the Section 2 ARARs tables and comments made on the text.

16. Table 4-12: Make Table's content consistent with any comments made on the text.

17. Table 5 and 6 tables: Make Tables' content consistent with any comments made on the Section 2 ARARs and comments made on the text.