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LETTER REGARDING U S EPA REGION I APPROVAL FOR TIME EXTENSION FOR  
OPERABLE UNIT 3 (OU 3) FEASIBILITY STUDY NSY PORTSMOUTH ME  
4/20/2000  
U S EPA REGION I



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**

REGION 1

1 CONGRESS STREET, SUITE 1100  
BOSTON, MASSACHUSETTS 02114-2023

April 20, 2000

Mr. Fred Evans  
Department of the Navy  
Northern Division  
Naval Facilities Engineering Command  
10 Industrial Hwy., Mail Stop #82  
Lester, PA 19113-2090

Re: Request for Time Extension on the Feasibility Study Report for Operable Unit 3  
Portsmouth Naval Shipyard  
Kittery, Maine

Dear Mr. Evans:

The United States Environmental Protection Agency (EPA) has received the Department of the Navy's request for a time extension for submittal of the Operable Unit 3 Draft Final Feasibility Study (FS) for the Portsmouth Naval Shipyard (PNS). The Navy's request is made pursuant to Section XIII, Extensions, of the Federal Facility Agreement (FFA) for the Portsmouth Naval Shipyard. The Navy's request was submitted to EPA in a letter dated April 12, 2000.

The Navy requests that the deadline for submission of the Draft Final Feasibility Study be changed from April 19, 2000 to June 26, 2000. This represents a time extension of 68 calendar days for submittal of the Draft Final Feasibility Study for OU3.

In order to substantiate the need for a time extension, the Navy highlights two major reasons to justify the need for the specified time extension. The first reason relates to when the Navy received regulator comments on the Navy's responses to comments on the draft Feasibility Study. The Navy indicates that EPA's comments were received seven days after the due date. In addition, two sets of comments from the Maine Department of Environmental Protection (DEP) were received seven and 22 days, respectively, after the end of the comment period. EPA recognizes the need to comply with established review periods and due dates. EPA's comments were provided in a letter dated March 16, 2000 (the due date was March 20, 2000). However, due to apparent administrative difficulties these comments were not received by the Navy in a timely manner. EPA will work to ensure that this does not happen again in the future. EPA recognizes our responsibility to provide comments at the appropriate stage of work and in a timely fashion. When this happens, EPA expects these comments to be addressed. Based on the information provided by the Navy in relation to their receipt of comments, EPA believes that good cause exists for an extension related to this matter. EPA does however point out that the

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receipt of comments after the end of a comment period will not always be considered justification for an extension. There is an expectation that the Navy will consider/address comments submitted by all interested parties, when these comments are received in a timely fashion. In future cases, as in this case, EPA will consider how the receipt of late comments, as well as the pertinence of such late comments, impacts the overall schedule and progress of work before determining whether an extension is warranted.

The Navy's second reason for requesting the extension is based on the Navy's finding that significant new technical issues were raised in the comments received from the DEP on the responses to comments on the Draft Feasibility Study. These technical issues relate to: 1) a request for additional sampling and analytical work at intertidal seeps; and 2) new information related to the hydrogeologic interpretation of OU3 put forth in earlier, finalized documents. At this juncture, EPA does not believe that these issues will change the overall outcome of the OU3 Feasibility Study. However, since these technical issues were raised during the period where the Navy was moving to prepare the Draft Final Feasibility Study rather than performing additional characterization/interpretation, EPA believes that good cause exists to support a time extension. Absent a time extension, the Navy would in no way be able to consider the issues raised by the DEP.

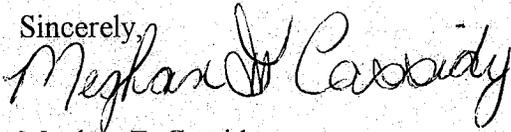
The Navy has worked out a plan (attached to the Navy's request for an extension) to work towards resolution of the new technical issues prior to finalization of the Feasibility Study Report for OU3. This plan includes the submission of additional information by the Navy, with review by EPA, DEP and other interested parties. In addition, the Navy's plan is dependent on the DEP to provide additional information related to the new technical issues raised. The plan includes an aggressive schedule for the production of the material, as well as for review of the information by the Navy, DEP, EPA and other interested parties. All parties must adhere to the schedule as agreed to by the Project Managers in order to avoid any further delay.

The Navy's request for a time extension also addresses how the extension impacts the overall schedule as it relates to expected funding availability. The Navy reports that if the requested extension is granted, both the Remedial Design and Remedial Action for OU3 will remain in the same funding years as originally scheduled. This is a critical factor as EPA reviews changes to schedules.

Based on the information provided, EPA believes that the Navy has shown that good cause exists to justify a time extension. EPA notes that there is some concern with the length of the extension request, but upon further examination of the schedule for interim submittals, as well as the nature and timing of the issues raised by DEP, we believe the duration of the extension is appropriate. EPA notes that should the issues not be resolved within the time provided in the extension an alternative course of action will need to be discussed. EPA will be extremely reluctant to agree to any further extensions related to OU3 since they would likely put the availability of funds to support the design and implementation of a remedy for OU3 in jeopardy.

If you have any questions regarding this matter, please contact me at (617)918-1387.

Sincerely,

A handwritten signature in cursive script that reads "Meghan F. Cassidy". The signature is written in black ink and is positioned above the typed name.

Meghan F. Cassidy  
Remedial Project Manager

cc: Marty Raymond/PNS  
Iver McLeod/ME DEP  
Carolyn Lepage/Lepage Environmental  
RAB Members  
Mary Sanderson/EPA  
Betsy Mason/EPA