

N00102.AR.002201
NSY PORTSMOUTH
5090.3a

LETTER AND COMMENTS ON BEHALF OF SEACOAST ANTI POLLUTION LEAGUE ON U S
NAVY RESPONSES REGARDING DRAFT DECISION DOCUMENT FOR SITE 26 NSY
PORTSMOUTH ME
12/27/2000
LEPAGE ENVIRONMENTAL SERVICES

Lepage Environmental Services, Inc.

P. O. Box 1195 • Auburn, Maine 04211-1195 • 207-777-1049 • Fax: 207-777-1370

December 27, 2000

Portsmouth Naval Shipyard
Code 106.3 R, Building 44
Attn: Ms. Marty Raymond
Portsmouth, New Hampshire 03802

Subject: Comments on the Navy's November 22, 2000, Responses to Comments on the August 2000 Draft *Decision Document for Site 26*

Dear Ms. Raymond:

We are transmitting the following comments on behalf of the Seacoast Anti-Pollution League (SAPL) on the Navy's responses to our October 23, 2000, comments on the August 2000 Draft *Decision Document for Site 26*. Most of the Navy's responses, which are dated November 22, 2000, were satisfactory. For those issues that are still outstanding, we have repeated our original comment from our October 23rd letter below and stated our additional comment.

Original Comment 3. Page 1-1, DESCRIPTION OF SELECTED REMEDY. This section states that the portable tanks that comprise Site 26 only contain petroleum waste. While this may be accurate regarding the current waste handling procedures, it is very likely that hazardous substances were disposed along with oil in the past. This section, as well as similar passages on pages 2-3, 2-5, and 2-6, should be revised to clarify that point. We also note that, under State of Maine law, waste oil containing other contaminants is likely a hazardous waste.

Additional Comment. The Navy's response refers to responses to EPA comments 4 and 9, and MEDEP comments 4a and 8 for revisions related to clarification of previous and current waste handling practices. However, none of the Navy's proposed text revisions specifically state or clarify that the Site 26 portable tanks likely handled various mixed wastes, not just petroleum, as the EPA pointed out in their comment number 4. Nor do the proposed revisions state or clarify that hazardous substances and contaminants may have been placed in the tanks in the past, as noted in MEDEP's comment 4a. It is important that the Decision Document clearly state that the material placed and temporarily stored in the tanks in the past was not limited to petroleum, and likely included hazardous substances. The potential impact of these mixed wastes, not just petroleum, should be addressed as part of OU4. The text requires additional revisions.

Original Comment 4. Page 1-1, STATUTORY DETERMINATIONS. While it is true that petroleum wastes are specifically exempt under CERCLA, as noted in Comment Number 3, above, it is likely that past disposal was not limited to petroleum wastes alone. The text should be revised to reflect this.

Additional Comment. The Navy's response refers to responses to EPA comments 1 and 5. The Navy's response to EPA comment 1 includes the statement "However, the Navy understands that the purpose of the Decision Document for Site 26 is to document the concurrence of the Navy, EPA and MEDEP that No Further Action under CERCLA is warranted for Site 26 because the tanks only contain petroleum wastes and previous releases are being addressed as part of Operable Unit 4 (OU4)." This statement presents an incomplete, even misleading, picture of Site 26 and underscores the need for additional revisions to the text. The tanks may currently contain only petroleum wastes, but are likely to have contained mixed wastes, including hazardous substances, in the past (see Additional Comment 3, above). This is an important point to make in the text. To not make this point clearly is to imply that the only potential Site 26 contaminant to be monitored in OU4 is petroleum. The text requires additional revision.

Original Comment 9. Page 2-5, COMMUNITY PARTICIPATION. When does the Navy anticipate holding the public comment period for the *Decision Document for Site 26*? Comment Number 1, above, also applies to this section.

Additional Comment. The Navy's response indicates that the timing of the public comment period will be discussed at the November 30, 2000, Restoration Advisory Board meeting. What is the currently anticipated timeframe for the public comment period?

10. Page 2-5, SCOPE AND ROLE OF OPERABLE UNIT. It is incorrect to state that "Site 26 is no longer a potential source of contamination to the offshore..." As long as the tanks are in use they will pose a potential threat to the offshore, although the threat may not be as large since operations and spill prevention were improved. The text must be revised.

Additional Comment. The Navy's response refers to the response to MEDEP comment 7b. The proposed text revision starts with "Site 26 is no longer a threat to the offshore because of the modifications and improvement of operations..." The proposed revision is not correct. As we stated in our original comment 10, as long as the tanks are in use, they will pose a threat to the offshore. The text requires appropriate revision.

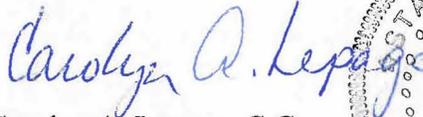
Page 3 of 3, M. Raymond
December 27, 2000
Responses to Comments, Draft *Decision Document for Site 26*

11. Pages 2-5 and 2-6, SITE CHARACTERISTICS. Comments Number 3, 5, and 8, above, also apply to this section.

Additional Comment. As noted above, we still have concerns with the Navy's response to comment 3 that remain to be addressed.

If you have any questions regarding the comments above, please give me a call at 207-777-1049.

Sincerely,



Carolyn A. Lepage, C.G.
President



cc: Johanna Lyons, SAPL
Iver McLeod, Department of Environmental Protection
Meghan Cassidy, Environmental Protection Agency