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LETTER REGARDING SEACOAST ANTI-POLLUTION LEAGUE REVIEW OF RESPONSES
TO COMMENTS ON DECISION DOCUMENT FOR SITE 27 NSY PORTSMOUTH ME
5/24/2001
LEPAGE ENVIRONMENTAL SERVICES

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May 24, 2001

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

Subject: Comments on the Responses to Comments on the January 2001 Draft Final
 Decision Document for Site 27

Dear Ms. Raymond:

We are transmitting the following comments on behalf of the Seacoast Anti-Pollution League (SAPL) regarding the Navy's May 4, 2001 responses to SAPL's April 6, 2001 comments on the January 2001 Draft Final *Decision Document for Site 27*. The Navy paraphrased, and in one case combined, the original April 6th comments. We are following the comment numbering sequence contained in the Navy's May 4th responses in our comments below.

1. We began the April 6th comments with a general comment that the Decision Document is very difficult for the general public to follow and understand, even for those who have some knowledge of the Superfund-related activities at the Shipyard. We also suggested that an effort should be made to improve the readability of the document. We did not, as the Navy's restatement of our comment indicates, state specifically that the format of the document should be revised. Format would be only one aspect of the document that should be considered during revision. The Navy's May 4th response covers two areas. The first is that the format of the document is the standard format for decision documents and was prepared in accordance with USEPA guidance. The second is that the draft document was presented at the November 2000 Restoration Advisory Board (RAB) meeting, and that the RAB presentations are provided to assist the RAB and attending community members in understanding the technical documents generated during the investigation and remediation efforts at the Shipyard.

We have several comments on the Navy's response. The response does nothing to address the issue that the public cannot readily follow and understand the Decision Document. That the document meets USEPA guidance is irrelevant to addressing the public's concern, and probably indicates that the USEPA guidance itself could stand some significant revisions. In fact, the overall impression given by the response is that the Navy really doesn't care that the public doesn't understand the basis for the no further action decision at Site 26 as long as the USEPA guidance is met and the agency is satisfied. How can the public offer meaningful comments during the public comment period if they cannot follow and understand the document?

With regard to the presentation at the RAB meeting (it was the September 2000 meeting, not the November 2000 meeting), SAPL appreciates the Navy's efforts to inform the RAB members and other attendees about technical (and decision) documents. These presentations are important and should be continued. However, to imply that the RAB should understand the Decision Document based on a single presentation is not fair. The presentations at the RAB meetings generally summarize the document under discussion. The information presented is simplified, and the audience has an opportunity to ask questions if certain points are unclear. Attendees can walk away with the feeling that they understood the oral presentation. However, when faced with the details of the written document several months later, all may not be clear. During the public comment period, which ran from March 8, 2001 through April 6, 2001, the public's input was solicited on the written document, not the September 2000 oral presentation. That is why it is crucial that the public be able to follow and understand the decision-making process that is outlined in the document. Furthermore, it is this document, not the RAB meeting presentation, that the Navy, the regulatory agencies, and the citizens will refer to in the future when questions arise about Site 26.

In addition, neither the material handed out by the Navy at the September RAB meeting, nor the notes we took during the meeting, indicate that any information was presented regarding the concentrations of metals detected in monitoring wells at Site 27, the exceedances of water quality criteria for in groundwater samples, or why metals in groundwater were no longer considered to be of concern at Site 27. As previous comments indicated, the decision to no longer worry about metals in groundwater must be documented in the Decision Document.

For the reasons outlined above, the Navy's response to SAPL's General Comment in the April 6th letter is unresponsive and unacceptable.

2. The Navy paraphrased the beginning of the April 6th Comment Number 2 as follows: "*SAPL repeated their previously expressed concern related to the metals concentrations in groundwater at Site 27 being above drinking water criteria and therefore, metals should be Chemicals of Concern (COCs) for Site 27...*" We did not state in our comment that metals should be COCs. Our actual comment is as follows: "*This section states that the only contaminant of concern at Site 27 is petroleum product. This statement is at odds with the groundwater quality information presented in Table 2-3, which includes a column headed "Frequency of Exceedences". If concentrations in groundwater exceed water quality criteria for a variety of metals, how can the only contaminant of concern be petroleum product? The rest of the Decision Document does not adequately address this issue...We also commented that it was not clear how the Navy progressed from intending to expand the area (presumably the area of investigation) at Site 27 in 1996, to No Further Action in 2000. A subsequent followup comment focused on the need to provide documentation of the decision to move from expanding the site to pursuing No Further Action. The Decision Document must provide evidence of that decision-making.*"

The Navy has missed the point of our April 6th comment and the previous related comments. At issue here is not that metals should be COCs. Rather it is how and when the decision was made that metals would not be COCs at Site 27. Somewhere between the release of the *Community Relations Plan* in 1996 and the development of the draft *Decision Document for Site 27* in 2000, a decision was made to not worry about the metals in groundwater at Site 27. This decision must be documented in the final Decision Document. Some of the information presented in the rest of the Navy's response may be appropriate to add to the Decision Document. In addition, the Navy's summary of SAPL's comment must be revised.

3. The third response focuses on SAPL's repeating the previously expressed concern related to the need to document the decision-making process for Site 27, particularly how the Navy progressed from intending to expand the area of investigation in 1996 to No Further Action under CERCLA in 2000. The second paragraph of the response states "*As the Navy has previous[ly] explained, the No Further Action Decision Document for Site 27 provides the basis for selection of No Further Action under CERCLA for the site. Therefore, the Decision Document for Site 27 is the documentation for the decision-making process...*"

We agree with the Navy that the Decision Document should be the documentation for the decision-making process. We are persisting with comments because, as currently written, the Decision Document DOES NOT document the decision-making process. There is a major disconnect in the decision documentation between the collection of groundwater data that prompts the need to expand work at the Site and reaching the decision that no further action is needed. It is this information gap that needs to be filled and documented in the Decision Document. The Navy's response is not responsive. The document must be revised.

4. The Navy summarizes comment 4 as follows: "*SAPL repeated their previously expressed concerns relating to surface water and sediment impact from Site 27 groundwater.*" Our April 6th Comments Numbers 4 and 6 were actually aimed more at how the results of the groundwater modeling were presented in the Decision Document. As currently written, the Decision Document misrepresents the modeling results, and misleads the reader. For example, the statement that "therefore, the groundwater-to-sediment contaminant pathway does not exist at OU5..." is presented as a fact, when it represents an assumption of the model. This is why we requested clarification. We do not understand why the Navy will not revise the text so that it is clear to the reader.

The Decision Document also states that the modeling shows that the modeling and available surface water data show that the migration of contamination from the onshore via groundwater is not a significant contributor to contamination to surface water. We have asked the Navy to add another statement from the modeling report, this one regarding contaminated sediments in the vicinity of Site 27 that may be attributed to releases from OU5. This fact is acknowledged on page 2-10 on the *On-Shore/Off-Shore Contaminant Fate and Transport Modeling Phase II*

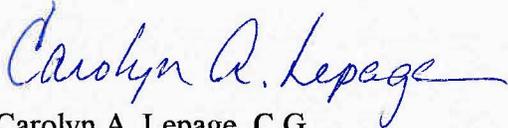
Report, which states that metal contamination in nearby sediments may be the result of past releases from OU5 or from other past or present Shipyard sources or other non-Shipyard sources elsewhere in the estuary. This statement is important for a number of reasons. As we pointed out earlier in this comment, the modeling assumed, for the purposes of conducting the model, that the groundwater-to-sediment pathway did not exist. In fact, contaminated sediments that may be attributed to Site 27 do exist, a fact acknowledged in the modeling report. The statement also presents a more complete picture of what the modeling can (and cannot) tell us about contamination migrating from the onshore to offshore areas. The model is just one of the tools used to help understand site conditions. It employs simplifying assumptions, so it is important to not misapply or overstate the modeling assumptions and conclusions. We do not understand why the Navy will not add the requested text regarding the model. We find the Navy's response to be unresponsive and unacceptable.

5. In response to SAPL's comment about adding information about frequency of detection and exceedance to the summary of the 1996/1997 groundwater monitoring results in the text, the Navy stated that the column showing frequency of exceedances of drinking water criteria will be deleted from Table 2-3. To hide information that was considered in the decision-making process is totally unacceptable. This data must be retained in the final Decision Document. Furthermore, the data indicate there are elevated levels of metals that may be of concern or present a potential risk if groundwater is extracted for purposes other than drinking water in the future. Perhaps it would be appropriate to implement institutional controls to prevent exposure to groundwater in the future as the MEDEP suggests in Comment 2 in their May 23, 2001 comment letter.

Additional Comment. Although we can anticipate what the Navy's response might be, the portion of Comment Number 7 from the April 6th letter dealing with adding the more stringent of the Maximum Exposure Guideline (MEG) or the Maximum Contaminant Level (MCL) for each parameter in Table 2-2 was not specifically addressed in the Navy's responses.

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: Jim Horrigan, SAPL
Iver McLeod, Department of Environmental Protection
Meghan Cassidy, Environmental Protection Agency