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NIROP ABL ROCKET CENTER
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LETTER STATING THAT THE NAVY WAS ASSESSED AND AGREED TO PAY A FINE TO
WEST VIRGINIA DIVISION OF ENVIRONMENTAL PROTECTION ALTHOUGH THE NAVY
CAN NOT PAY PENALTIES UNTIL AUTHORIZED BY CONGRESS ABL ROCKET CENTER

WV

3/2/1999

NAVFAC MIDLANT



DEPARTMENT OF THE NAVY
OFFICE OF THE CHIEF OF NAVAL OPERATIONS
2000 NAVY PENTAGON
WASHINGTON, D.C. 20350-2000

IN REPLY REFER TO

5090
Ser N453/9U595243
02 Mar 99

Michael P. Miano
Director, Division of Environmental Protection
West Virginia
10 McJunkin Road
Nitro, WV 25143

Dear Mr. Miano:

This letter is in reference to Order Number HW-524-96 of May 22, 1997, issued under the Hazardous Waste Management Act, West Virginia Code, Chapter 22, Article 18. Pursuant to the order, Navy was assessed and agreed to pay a fine of \$108,800 to the West Virginia Division of Environmental Protection. However, as you are aware, under the provisions of 10 USC Sec 2603(e), Navy can not pay penalties until specifically authorized to do so by Congress.

Although funding was appropriated in the FY99 budget to pay the fine associated with Allegany Ballistics Laboratory (ABL), the necessary, specific authorization language was absent from the DoD Authorization Act of 1999. Navy has discussed the issue internally as well as with a staff member of the Senate Armed Services Committee (SASC). All agree that payment of the fine without specific authorization would be a violation of the law. Navy has therefore arranged to provide to the SASC all information necessary to ensure specific authorization language will be included in the FY00 DoD authorization bill. It is anticipated that the bill will be passed sometime in September 1999. With such an authorization in hand, Navy has determined that it would be appropriate to use FY99 funds to promptly pay the \$108,800 fine to West Virginia.

Navy regrets having to delay payment of the fine. Please be assured that all necessary steps are being taken to resolve this matter as quickly as possible. We look forward to continuing

our work with West Virginia to cleanup Allegany Ballistics Laboratory. If we can answer any questions about payment of the fine or other cleanup issues at ABL, please contact Mr. Dave Olson on my staff at (703) 602-2571.

Sincerely,



A. A. GRANUZZO
Rear Admiral, U.S. Navy
Director, Environmental Protection,
Safety and Occupational Health Division