

N00639.AR.000916
NSA MID SOUTH
5090.3a

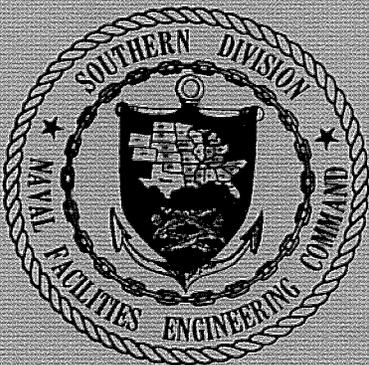
COVENANT DEFFERAL REQUEST MILLINGTON SUPPACT TN
4/1/1999
ENSAFE INC



COVENANT
DEFERRAL
REQUEST

NAVAL
SUPPORT
ACTIVITY
MID-SOUTH

MILLINGTON,
TENNESSEE



APRIL 1999



STATE OF TENNESSEE

DON SUNDQUIST
GOVERNOR



September 24, 1999
Ms. Elsie Munsell
Deputy Assistant Secretary of the Navy
Department of the Navy
Office of the Assistant Secretary
(Installations and Environment)
1000 Navy Pentagon
Washington, DC 20350-1000

OFFICE OF THE GOVERNOR
SUPPORT

RE: Request for Covenant Deferral under CERCLA §120(h)(3)(C) for
Naval Support Activity, Mid-South at Millington, Tennessee

Dear Ms. Munsell:

This letter is to express my approval of the Navy decision to make an early deed transfer of the above-referenced site.

Based on the information you provided in the Covenant Deferral Request (CDR), it appears that this transfer will comply with early transfer provisions found in CERCLA. It is my understanding and expectations that the Navy will remain fully responsible for any remediation that may be necessary at the site. It is my further understanding that this CDR does not waive or impact in any way, the State's right to recover any damages that may have been caused to Natural Resources.

Sincerely,

Don Sundquist

Don Sundquist

DS/ML



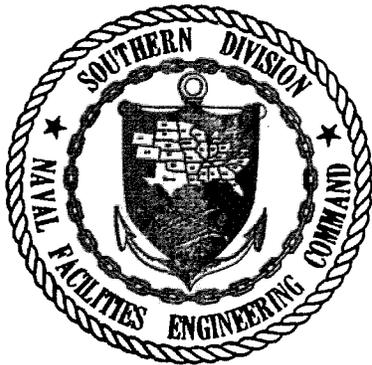
APRIL 1999



COVENANT
DEFERRAL
REQUEST

NAVAL
SUPPORT
ACTIVITY
MID-SOUTH

MILLINGTON,
TENNESSEE



APRIL 1999

Table of Contents

I.	Background	1
II.	Description of Property to be Transferred by Deed	1
III.	Nature and Extent of Hazardous Substance Contamination	2
IV.	Analysis of Intended Future Land Use	3
V.	Results of Risk Assessments Performed	4
VI.	Response / Corrective Action and O & M Requirements	5
VII.	Contents of Deed / Transfer Agreement	5
VIII.	Natural Resources Restoration and Damage Assessment	8
IX.	Transferee Response Action Assurances and Agreements	9
X.	Effect of Covenant Deferral Request	9
XI.	Responsiveness Summary	9

List of Exhibits

Exhibit A	Map Indicating Airfield and Non-Airfield Parcels and areas of Hazardous Substance Contamination
Exhibit B	Projected Timeline for the Selection and Completion of Remediation of Areas with Hazardous Substance Contamination
Exhibit C	Summary of Response Actions Taken and Notice of Hazardous Substance and Release
Exhibit D	Public Comment Notices
Exhibit E	Public Comments
Exhibit F	Responses to Unresolved Written Comments

**COVENANT DEFERRAL REQUEST
FOR
NAVAL SUPPORT ACTIVITY, MID-SOUTH
MILLINGTON, TENNESSEE**

I. Background

In accordance with actions taken pursuant to the Defense Base Closure and Realignment Act of 1990, the former Naval Air Station (NAS) Memphis, has been operationally closed and realigned into the Naval Support Activity (NSA) Mid-South. This realignment made the northern portion of the former NAS Memphis available for community reutilization. Both environmental investigation and clean-up activities have been ongoing onboard the former NAS Memphis since 1983. However, because certain response activities remain to be completed on portions of the property being made available for community reuse, federal law requires that the Governor of the State of Tennessee approve any proposed deed transfer of those areas to any non-federal, non-potentially responsible party.

Section 120(h)(3)(C) of the Comprehensive Response, Compensation and Liability Act of 1980 (CERCLA) (42 U.S.C. 9601 et. seq.) sets forth the specific conditions upon which State approval of early (i.e., pre-final remediation complete) transfers of federal facilities should be granted. This request is intended to facilitate the granting of such approval by Governor Sundquist and is consistent with Department of Defense (DoD) guidance for the early transfer of facilities like NSA Mid-South which are not on the Environmental Protection Agency's (U.S. EPA's) National Priorities List (NPL). The format used comes from guidance developed by U.S. EPA for the early transfer of federal NPL facilities.

Approval of this deferral request by Governor Sundquist will facilitate the development and execution by the Navy of a Finding Of Suitability for Transfer (FOST). The FOST will address all environmental matters affecting the overall suitability of the property and facilities intended for transfer to include those matters not specifically required by law or DoD policy to be encompassed under this deferral request (e.g., presence of asbestos containing materials or lead-based paint in buildings or any sites with residual petroleum contamination).

II. Description of Property to be Transferred by Deed

The entire property to be deed transferred (only portions of which have any hazardous substance contamination) comprises approximately 1,858 acres of land and roughly seventy (70) buildings or other structures situated within the northern portion of NSA Mid-South. It is contemplated that this property will be conveyed through two mechanisms, a Public Benefit Conveyance (PBC) of 537 acres known as the "Airfield Parcel" to the City of Millington for use by the Millington Municipal Airport Authority and 1,321 acres known as the "Non-Airfield Parcel" to the City of Millington for use by the

Millington Industrial Development Board, through an Economic Development Conveyance (EDC). The areas of hazardous substance contamination on both parcels are depicted in Exhibit A to this deferral request. Land surveys will be conducted prior to the deed transfer of either parcel to delineate these areas from those uncontaminated areas also depicted in Exhibit A which fall outside the scope of this deferral request.

The Airfield Parcel contains the primary runway; taxiways; clear zones; aircraft parking apron; two aircraft hangars, and numerous other airfield support structures in addition to open land. The Non-Airfield Parcel surrounds the Airfield Parcel, and consists of open land, recreational facilities, as well as various other facilities and buildings which supported the operation of the former Air Station. A complete listing of the facilities located on each parcel is included in Environmental Baseline Survey for Transfer – January 1999 (EBST) prepared to assess the environmental condition of both parcels. That document, which is currently being updated to reflect the latest site data collected, will be provided to the City of Millington prior to deed transfer.

III. Nature and Extent of Hazardous Substance Contamination

The investigation of hazardous substance contamination at NSA Mid-South has revealed primarily one concern, that being solvent contamination, chiefly trichloroethylene (TCE), in portions of the fluvial deposits aquifer which underlie the facility. Because the lateral extent of this contamination has not been fully defined, it has yet to be determined whether off-site migration of TCE in the fluvial deposits aquifer may have occurred. Screening data from wells placed along the northwestern perimeter show concentrations of TCE ranging from non-detect to 6 parts per billion (ppb). The U.S. EPA established Maximum Contaminant Level (MCL) for TCE in drinking water is 5 ppb. The fluvial deposits aquifer has not previously been used as a source of drinking water for NSA Mid-South. Based on all data collected to date, there is no basis for concluding that the underlying Memphis aquifer, a partial source for NSA Mid-South's potable water, has been impacted by such contamination. This data can be found in the groundwater well sampling and monitoring data technical reports and memoranda prepared by the Navy for this facility. This same data further indicates that the Cockfield/Cook Mountain Formations confining layer, which is present between the fluvial deposits aquifer and the deeper Memphis aquifer, has historically and should in the future, adequately protect the Memphis aquifer from the downward movement of any contamination in the fluvial deposits aquifer.

The highest concentration of TCE contamination detected in the fluvial deposits aquifer was 4,400 parts per billion (ppb). The majority of samples analyzed indicate concentrations of less than 20 ppb. Although the fluvial deposits aquifer has not historically been used as a drinking water source, it is classified under Tennessee regulations as a drinking-water aquifer making the 5 ppb MCL the applicable cleanup goal for this aquifer. The random distribution of the TCE contamination discovered, coupled with site-specific hydrogeology, appear to limit the range of practical remedial alternatives to address such contamination. However, those alternatives still need to be fully evaluated. The areas of known hazardous substance contamination in groundwater are also reflected in Exhibit A.

The EBST prepared by the Navy classified the various portions of the surplus property and improvements on NSA Mid-South into one of seven environmental condition of property classifications as follows:

- **Category 1 / White** - Areas where no storage, release or disposal of hazardous substances or petroleum products has occurred (including no migration of these substances from adjacent areas).
- **Category 2 / Blue** - Areas where only the storage of hazardous substances or petroleum products has occurred (but where no release, or disposal, or migration from adjacent areas has occurred).
- **Category 3 / Light Green** - Areas where storage, release, disposal, and/or migration of hazardous substances or petroleum products has occurred but at concentrations that do not require a removal or remedial action.
- **Category 4 / Dark Green** - Areas where storage, release or disposal and/or migration of hazardous substances or petroleum products has occurred, and all removal or remedial actions to protect human health and the environment have been taken.
- **Category 5 / Yellow** - Areas where release or disposal of hazardous substances has occurred and removal or remedial actions are underway, but all required remedial actions have not yet been taken.
- **Category 6 / Red** - Areas where a release of hazardous substances has occurred, but required actions have not yet been implemented.
- **Category 7 / Grey** - Areas that are unevaluated or require additional evaluation.

The following table summarizes the current status of those particular sites where hazardous substance (HS) investigative and/or remedial measures still need to be completed and their corresponding property condition color designation.

Site	Description	Site Status / Color Designation
SWMU 5	Former Aircraft Fire Fighting Training Area (Non-Airfield Parcel)	<u>Status:</u> Portion of fluvial deposits aquifer is contaminated with carbon tetrachloride. This site will be further investigated and then incorporated into the AOC A Corrective Measures Study as necessary. <u>Color Designation:</u> Red
Turkey Shoot	Former VFW Turkey Shoot Area (Non-Airfield Parcel)	<u>Status:</u> Surface soil contaminated with lead, which poses a possible ecological risk to the American Robin and short-tailed shrew (or similar species). Removal of lead contaminated soil currently scheduled for second quarter of FY2000. <u>Color Designation:</u> Red
AOC A	Northside Fluvial Deposits Groundwater (area of contamination in both Airfield and Non-Airfield Parcels, primarily around aircraft parking aprons).	<u>Status:</u> Portion of fluvial deposits aquifer contaminated with chlorinated solvents. Fluvial deposits aquifer contamination has been incorporated into the AOC A Corrective Measures Study (CMS) currently underway. <u>Color Designation:</u> Red

IV. Analysis of Intended Future Land Use

The Millington Base Reuse Committee (Local Redevelopment Authority), has a Reuse Plan, *Base Reuse & Economic Development Plan, Memphis Naval Air Station, Millington, Tennessee, Final Report, (29 August 1995)*, which will serve as the blueprint for community reuse of the parcels in question and their associated facilities. This plan calls for the use of the former airfield as a municipal airport, which will serve as one component of a larger combined industrial / business / air park. The goal of the Committee's Reuse Plan is to maintain the option of operating an airport, while providing diversity to support additional job-generating industrial activities, should the airport later prove to be economically infeasible to operate. With the exception of one parcel located north of the former Naval Hospital which is distant from the above identified sites and not covered under this deferral request, residential reuse is not planned for any portion of the surplus property to be conveyed to the City for reuse.

V. Results of Risk Assessments Performed

Risk assessments have been performed in conjunction with investigative activities conducted at each Solid Waste Management Unit (SWMU) or Area of Concern (AOC) with identified hazardous substance contamination. The results of these assessments may be summarized as follows:

1. **SWMU 5:** Potential future human health risks from the hazardous substance contamination associated with this site would be from exposure to groundwater from the fluvial deposits aquifer beneath the site. There is currently no direct exposure pathway for such contamination because there are no water supply wells on the property which utilize the fluvial deposits aquifer. All water used for drinking, irrigation or industrial process purposes is currently obtained through the Navy's potable water system which draws from the Memphis and Ft. Pillow aquifers. It is believed that any risk associated with the presence of such subsurface contamination may effectively be managed through the utilization of appropriate deed restrictions to prohibit the installation of shallow water supply wells for the extraction or usage of groundwater from the fluvial deposits aquifer unless subsequent testing shows that any remaining contamination has fallen to levels determined to be safe for human consumption (i.e., below the applicable MCL). These restrictions will apply to known areas of groundwater contamination and within a buffer zone to take into account any movement of contamination laterally down gradient over time. Although separately considered, ecological risk was not identified as a concern at this site.

2. **Former VFW Turkey Shoot Area:** The risk assessment conducted for this site focused on both those potential human health and ecological risks associated with the presence of lead shot in soils. Residual lead concentrations were discovered in excess of the U.S. EPA's lead action level for residential land usage of 400 milligram per kilogram (mg/kg) but were below calculated human health risk associated with assumed commercial / industrial usage of this property. The assessment conducted also noted that the bio-absorption of lead is generally limited when consumed in shot form. The

only ecological risk associated with the contamination found at this site was potential adverse impact to the American Robin and short-tailed shrew (or similar species) which might consume the lead shot. That assessment was based upon the highest lead concentration identified on any portion of the site and hence, may not be truly representative of actual ecological risk. Nonetheless, it is the Navy's intent to eliminate potential human health and/or ecological risk by removing shot and lead-contaminated soil below 400 mg/kg. Removal activities will commence after the Navy has obtained the requisite FY2000 funding.

3. **AOC A:** The risk assessment for this site focused on groundwater in the fluvial deposits beneath and extending out from the aircraft apron area situated on the Airfield Parcel where chlorinated solvent contamination has been discovered. As reflected in Exhibit A, groundwater contamination associated with this site also extends partly beneath the Non-Airfield Parcel.

As is the case with SWMU 5, there is currently no direct exposure pathway for the groundwater contamination at this site because there are no water supply wells on the property which utilize the fluvial deposits aquifer. Similarly, all water used for drinking or other purposes is supplied through the Navy's potable water system which draws from the Memphis and Ft. Pillow aquifers. It is believed that any risk associated with the presence of groundwater contamination at this site may effectively be managed through the utilization of appropriate deed restrictions to prohibit the installation of shallow water supply wells without prior Government approval or the future usage of such ground waters unless subsequent testing shows that any remaining contamination has fallen to levels safe for human consumption. All groundwater restrictions will apply to known areas of contamination and within a buffer zone to take into account any movement of contamination laterally down gradient over time. Upon evaluation, ecological risk was not identified as a concern at this site

VI. Response / Corrective Action and O & M Requirements

The Corrective Action Management Plan (CAMP) for NSA Mid-South, Revision 4, dated 23 October 1997, provides the strategy, schedule, and timeline for implementing the corrective action program. In summary, the CMS for the fluvial deposits groundwater is scheduled to be completed in the year 2000, with remedy implementation (presumed to be natural attenuation possibly in combination with on-site containment) to follow. Operation and Maintenance / Long-Term Monitoring will follow as necessary. An implementation plan to address procedures for the continued maintenance of all necessary institutional controls (ICs) will be developed and set in place prior to the deed transfer of any parcel where such controls must be maintained to ensure future protection of human health and the environment.

The projected timeline for the selection and completion of remediation, as taken from the CAMP and updated, is attached as Exhibit B to this deferral request. Exhibit C provides a summary of all response actions completed to date and provides the notice required by CERCLA Section 120(h)(3)(A)(i).

VII. Contents of Deed / Transfer Agreement

1. In accordance with CERCLA Section 120(h)(3)(A), the Navy shall include the following provisions in the quitclaim deed(s) or other transfer document(s) which shall convey title to the Airfield and Non-Airfield parcels to the City of Millington as Grantee. The Navy may make minor, non-substantive changes to such language, but will advise the appropriate TDEC representatives of any such changes prior to closing.

a. *Notice:*

In accordance with Section 120(h)(3)(A)(i) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA), as amended, (42 U.S.C. 9620(h)(3)(A)(i)), you are advised that Exhibit C to this deed summarizes pertinent information from the Environmental Baseline Survey for Transfer - January 1999 (EBST) prepared to assess the overall environmental condition of the property which provides all available information based upon a complete search of agency files of those hazardous substances known to have been stored for one year or more, released or disposed of on the property, to include if known, the type and quantity of such hazardous substances, the date such storage, release or disposal took place and a description of all remedial action(s) taken.

b. *Covenant:*

In accordance with Section 120(h)(3)(A)(ii) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA), as amended, (42 U.S.C. 9620(h)(3)(A) (ii)), the United States warrants that it shall take any additional remedial action found to be necessary with regards to any hazardous substance(s) remaining on the property at the time of conveyance. This covenant shall not apply in any case in which any response action required is the result of an act or failure to act of the Grantee or its successors and assigns which results in a release of hazardous substances after the date of conveyance.

c. *Access:*

In accordance with Section 120(h)(3)(A)(iii) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA), as amended, (42 U.S.C. 9620(h)(3)(A) (ii)), the United States reserves the right to access all portions of the Property for future environmental investigation, remediation or other corrective actions. This reservation includes the right of access to and use of, to the extent permitted by law, available utilities at reasonable cost to the United States. These rights shall be exercisable in any case in which a remedial action, response action or corrective action is found to be necessary after the date of conveyance of the Property, or in which access is necessary to carry out a remedial action, response action or corrective action on adjoining property. Pursuant to this reservation, the United States and the State of Tennessee and their officers, agents, employees, contractors and subcontractors shall have the right (upon reasonable notice to the Grantee or the then owner and any authorized occupant of the Property) to enter upon the Property and conduct investigations and surveys, to include drillings, test-pitting, borings, data and record compilation, and other activities related to environmental investigation and to carry out remedial or removal actions as required or necessary under applicable authorities, including but not limited to monitoring wells, pumping wells, and treatment. Any such entry, including such activities, responses or remedial actions, shall be coordinated with the Grantee or its successors assigns, and tenants and shall be performed in a manner which minimizes interruption with Grantee's activities on the property.

2. In accordance with CERCLA Section 120(h)(3)(C), the following additional provisions will also be included in the quitclaim deed(s) or other transfer document(s) which shall convey title to the Airfield and Non-Airfield parcels to the City of Millington as

Grantee. The Navy may make minor, non-substantive changes to such provisions, but will advise the appropriate TDEC representatives of any such changes prior to closing.

a. *Response Action Assurances*

1. *The United States shall take all necessary response actions with regards to any hazardous substances remaining on the property at the time of deed conveyance. A projected work completion schedule associated with such actions is included as Exhibit B, and will be reviewed by the Navy, U.S. EPA and the State of Tennessee on an annual basis and updated as necessary as part of the annual update of the Corrective Action Management Plan (CAMP) for this facility.*
2. *The Navy shall submit on an annual basis through established channels, appropriate budget requests to the Director of the Office of Management and Budget that adequately address those agreed upon schedules for investigation and completion of all necessary response action reflected in annual updates to the CAMP, subject to future congressional authorizations and appropriations. The currently projected budget requirements for the completion of all required response actions are as follows:*

<u>Fiscal Year</u>	<u>Projected Cost</u>	<u>Funded Activity</u>
2000	\$ 560,000	Remedial Design
2001	\$ 250,000	Remedial Design
2002	\$ 360,000	Corrective Measures Implementation
2003	\$ 160,000	Corrective Measures Implementation
2004	\$ 205,000	Corrective Measures Implementation
2005-2015	\$ 105,000/yr	Long-Term Monitoring
Total	\$ 2,690,000	

3. *When all response action necessary to protect human health and the environment with respect to any substance remaining on the property on the date of conveyance has been taken, the United States shall execute and deliver to the transferee an appropriate document containing a warranty that all such response action has been taken.*

b. *Grantee Covenants*

1. *Grantee covenants and agrees for itself and its lessees, licensees, successors or assigns to any interest to the property, or part thereof, that use of the property shall be limited to nonresidential, industrial uses to include any office or similar use incidental to industrial uses if such incidental use is permitted by applicable regulatory authorities without requiring further environmental remediation beyond that required for industrial use of the property. Prohibited residential uses include, but are not limited to, any child care, pre-school, playground or any form of housing. In the event the Grantee or its lessees, licensees, successors or assigns to any portion of the property desire to use the property for any use other than industrial use, then Grantee or its lessees, licensees, successors or assigns shall perform all additional environmental remediation required by law or applicable regulatory authorities for such other uses and shall further comply with all laws, rules, regulations and ordinances pertaining thereto, including but not limited to zoning requirements and the requirements of all applicable regulatory authorities. All costs associated with any such additional environmental remediation necessary for other than industrial use shall be the sole responsibility of the owner, its lessees, licensees, successors or assignees, without cost whatsoever to the Grantor.*

2. *Grantee covenants and agrees for itself, its lessees, licensees, successors or assigns to any interest to the property, or part thereof, that it will (i) provide written notice to the United States of its intent to use the property for anything other than industrial use (ii) provide a description of its plans for undertaking any environmental investigation and/or cleanup activities necessary to permit such a change in land usage, and (iii) ensure that such activities will not conflict with any ongoing or future remedial activities to be taken by the United States or in any way serve to adversely affect any remedial remedies previously put in place by the United States on the property.*
3. *Grantee covenants and agrees for itself and its lessees, licensees, successors or assigns to any interest to the property, or part thereof that it shall not construct or permit to be constructed any well, and shall not extract, utilize, consume or permit to be extracted, any water from the aquifer below the surfaces of the ground within the boundary of the Property for the purpose of human consumption, or other use, unless such groundwater has been tested and found to meet applicable environmental standards for human consumption, or such other use, and such owner or occupant shall first have obtained written approval of the United States. The costs associated with obtaining use of such water, including, but not limited to, the costs of permits, studies, analysis or remediation, shall be the sole responsibility of the Grantee, its successors and assigns, without cost whatsoever to the United States.*
4. *Grantee covenants and agrees for itself and its lessees, licensees, successors or assigns to any interest to the property, or part thereof that it shall not excavate or conduct any other soil disturbing activities within those areas of known or suspected surface or subsurface soil contamination identified in the Environmental Baseline Survey for Transfer (EBST) provided to the Grantee, without prior written approval of the United States. Any costs associated with the need to obtain any permits or to utilize personal protective equipment or to undertake other environmental or worker health and safety measures in compliance with applicable laws or regulations when dealing with potentially contaminated soils in such areas shall be the sole responsibility of the Grantee, its lessees, licensees or successors and assigns, without cost whatsoever to the United States.*
5. *Grantee covenants and agrees for itself, its lessees, licensees, successors or assigns to any interest to the property, or part thereof, that it shall comply with the provisions of any health and safety plan put into effect by the United States in connection with any ongoing or future environmental investigative and/or remedial activities to be undertaken by the United States on the property.*
6. *Grantee covenants and agrees for itself and its lessees, licensees, successors or assigns to any interest to the property, or part thereof, that it shall not hinder or prevent the United States from constructing, upgrading, operating, maintaining and monitoring any groundwater treatment facilities and groundwater monitoring network or engage in any activity that will disrupt or hinder further remedial investigation, response actions or oversight activities on the Property or adjoining property required.*
7. *Grantee covenants and agrees for itself and its lessees, licensees, successors or assigns to any interest to the Property, or part thereof that it shall provide written notice to the United States of any subsequent sale, assignment or lease of the property, or any portion thereof, and provide contact information concerning the new owner or occupant.*

VIII. Natural Resources Restoration and Damage Assessment

a. Reservation of Rights Acknowledgement:

It is understood that State concurrence with this request for covenant deferral shall not serve to trigger the Statute of Limitations provided for under CERCLA Section 113(g)(1), nor otherwise release the Navy from any liability or waive any claim that the State

of Tennessee may have pursuant to any provision of State or federal law, including any claim for damages occasioned by any injuries to, destruction of, or loss of any natural resource as may have resulted from the Navy's past use and operation of NAS Memphis.

b. Navy Responsibilities

1. Trustee Notification

The Navy acknowledges that it is a Trustee for those natural resources present at NSA Mid-South. The Navy agrees to notify the appropriate Federal and State natural resource trustees as required by Section 104(b)(2) of CERCLA and Section 2(e)(2) of Executive Order 12580 of potential damages to natural resources resulting from the past release or disposal of CERCLA hazardous substances, pollutants or contaminants on or from NSA Mid-South.

2. Trustee Coordination

The Navy agrees to coordinate all future assessments, investigations and planning undertaken pursuant to those CERCLA Section 104 response authorities delegated to it under Executive Order 12580 with the appropriate Federal and State Trustees to include, assessing the nature and extent of those natural resource injuries which may have occurred at NSA Mid-South. Such coordination shall be rendered in the context of the Navy fulfilling its site investigation and cleanup responsibilities under CERCLA and the facility's HSWA permit. One of the objectives of such coordination will be to minimize those natural resource damage assessment costs which might otherwise have to be incurred by such Trustees in order to pursue a claim for natural resource damages under CERCLA Section 107 (42 U.S.C. Section 9607).

3. Support of Restoration Advisory Board

Consistent with DoD policy, the Navy has previously established a Restoration Advisory Board (RAB) for NSA Mid-South. The purpose of RAB establishment was to provide a forum for cooperation between the Navy, TDEC, the U.S. EPA, and local community representatives, on proposed site / resource restoration related activities onboard NSA Mid-South. Subject to obtaining appropriated funds for such purposes, the Navy agrees to continue to support RAB activities until such time as the purposes for use of that body have been satisfied. The Commissioner of TDEC shall be provided advance timely notice of RAB activities including meetings, proposed decisions and other significant functions.

IX. Transferee Response Action Assurances and Agreements:

The Grantee will not be assuming any obligations to conduct response actions on the property associated with hazardous substances remaining on the property at the time of conveyance. The Navy shall retain responsibility for the completion of all necessary response actions consistent with CERCLA and its RCRA/HSWA permit obligations.

X. Effect of Covenant Deferral Request:

Nothing in this Covenant Deferral Request shall be construed to alter Navy's obligations under applicable federal or state law to complete all necessary response actions. Approval of this deferral request and subsequent transfer of the property will not substantially delay necessary response action(s) on the property.

XI. Responsiveness Summary:

As reflected in Exhibit D, in October of 1998 and again in March of 1999, public comment was solicited on drafts of this covenant deferral request via newspaper publication of document availability notices. Navy received comments both from the general public and from U.S. EPA and TDEC representatives. All comments received were considered in the preparation of this final request, and all written comments are included in Exhibit E. Navy's responses to any unresolved written comments are included in Exhibit F.

Suitability Declaration

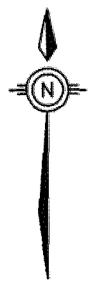
As the cognizant U.S. Department of Defense (DoD) official authorized to make such determination, I, the undersigned, have determined that under the proposed land-use conditions and restrictions to be implemented, that the above described property is suitable for the intended reuse and that to allow such uses would be consistent with future protection of human health and the environment.

8/20/99
Date

Elsie L. Munsell
Elsie L. Munsell
Deputy Assistant Secretary of the Navy
(Environment And Safety)

Exhibit A

**Map Indicating Airfield and Non-Airfield Parcels and
Areas with Hazardous Substance Contamination**



APPROXIMATE EXTENT OF AOC A
FLUVIAL DEPOSITS GROUNDWATER
CONTAMINATION.

TURKEY SHOOT AREA—
LEAD-CONTAMINATED SOIL
TO BE REMOVED IN
1999.

SWMU 5 FLUVIAL DEPOSITS
GROUNDWATER CONTAMINATION

- LEGEND
-  - AIRFIELD PARCEL
(APPROXIMATELY 538 ACRES)
 -  - NON-AIRFIELD PARCEL
(APPROXIMATELY 1,329 ACRES)
 -  - BRIG PARCEL
(APPROXIMATELY 4 ACRES)
 -  - PROPERTY TO BE RETAINED
BY THE NAVY



COVENANT DEFERRAL REQUEST
NAVAL SUPPORT ACTIVITY
MID-SOUTH
MILLINGTON, TENNESSEE

AIRFIELD, NON-AIRFIELD, AND BRIG PARCELS
KNOWN AREAS OF HAZARDOUS
SUBSTANCE CONTAMINATION

DWG DATE: 04/23/99 DWG NAME: 0094B026

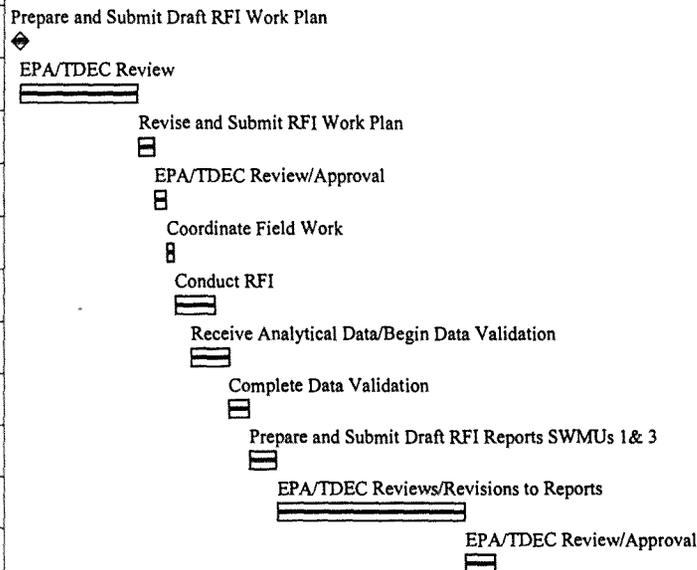
Exhibit B

**Projected Timeline for the Selection and Completion
of
Remediation of Areas with Hazardous Substance Contamination**

1994 1995 1996 1997 1998 1999 2000 2001 2002 2003

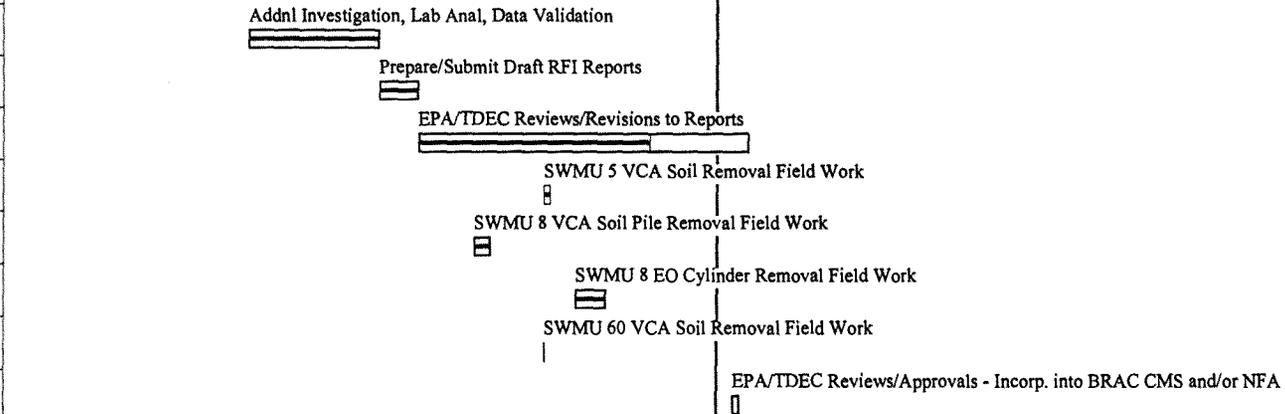
Phase I - BRAC Assembly A

TASK 00101	AF 15SEP93
OD 0	PCT 100
TASK 00102	AF 18AUG94
OD 185	PCT 100
TASK 00103	AF 6OCT94
OD 78	PCT 100
TASK 00104	AF 9NOV94
OD 1	PCT 100
TASK 00105	AF 2DEC94
OD 15	PCT 100
TASK 00106	AF 31MAR95
OD 100	PCT 100
TASK 00107	AF 12MAY95
OD 20	PCT 100
TASK 00108	AF 6JUL95
OD 35	PCT 100
TASK 00109	AF 22SEP95
OD 41	PCT 100
TASK 00110	AF 19MAR97
OD 20	PCT 100
TASK 00112	AF 13JUN97
OD 260	PCT 100



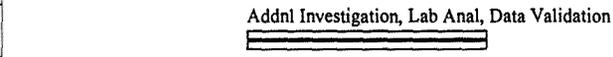
Phase 1 - BRAC Assembly A SWMUs 5,8,60

TASK 00113	AF 17JUL96
OD 172	PCT 100
TASK 00114	AF 6NOV96
OD 20	PCT 100
TASK 00115	EF 15JUN99
OD 618	PCT 70
TASK 00116	AF 21NOV97
OD 14	PCT 100
TASK 10116	AF 2JUN97
OD 32	PCT 100
TASK 20116	AF 30APR98
OD 63	PCT 100
TASK 30116	AF 6NOV97
OD 3	PCT 100
TASK 00117	EF 21MAY99
OD 21	PCT 0



Phase 1-BRAC Assembly A SWMU 7/Northside GW AOC

TASK 00133	AF 28MAY97
OD 426	PCT 100



Plot Date 17MAR99
 Data Date 16MAR99
 Project Start 1SEP93
 Project Finish 31OCT03

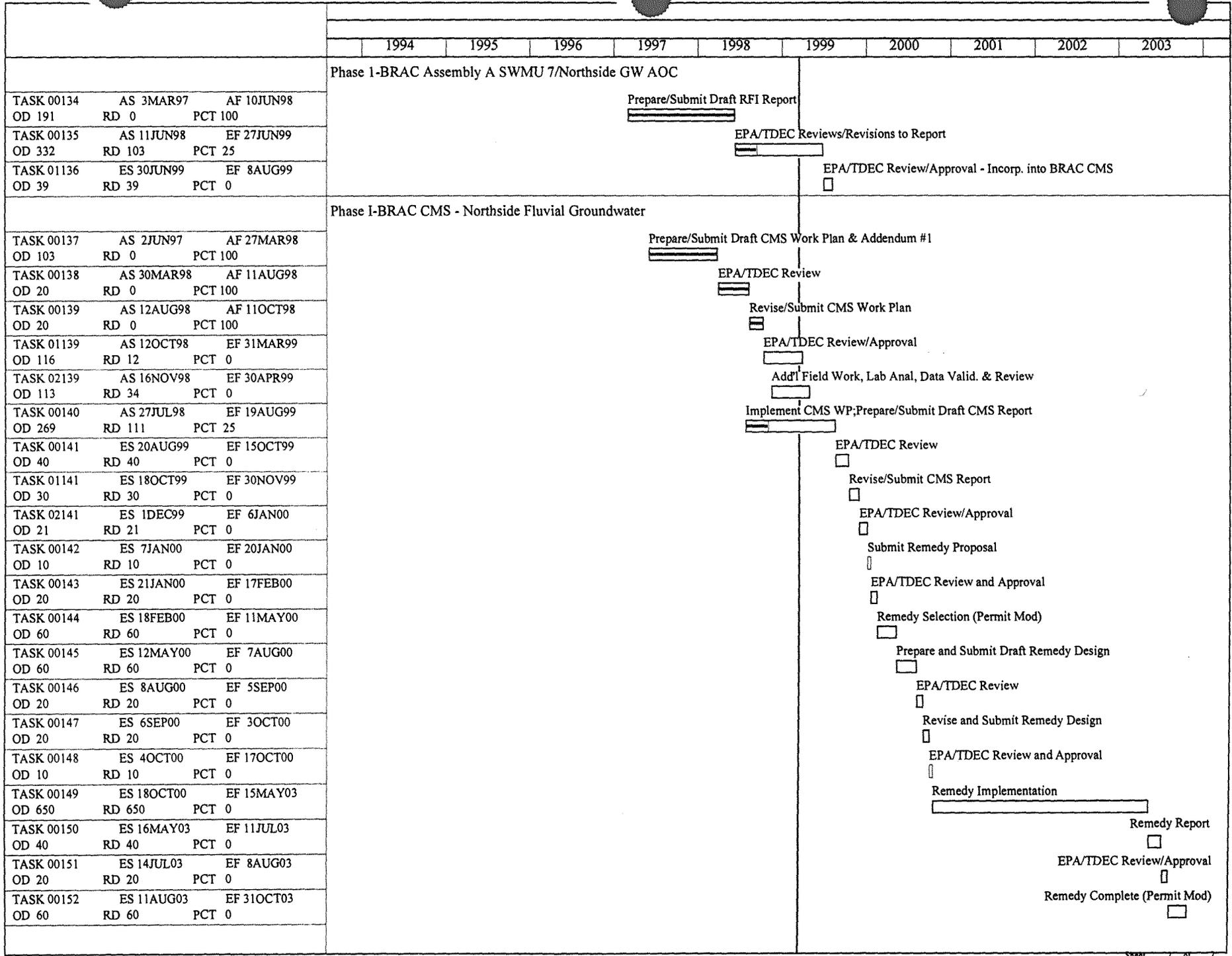
Activity Bar/Early Dates
 Critical Activity
 Progress Bar
 Milestone/Flag Activity

LA03

Sheet 1 of 7

NSA Mid-South
 BRAC RFI Schedule

Date	Revision	Checked	Approved



1994	1995	1996	1997	1998	1999	2000	2001	2002	2003
------	------	------	------	------	------	------	------	------	------

Phase I-BRAC CMS - Northside Fluvial Groundwater

TASK 00153 EF 31OCT03
OD 0 RD 0 PCT 0

Operations & Maintenance/Long Term Monitoring

Phase I - BRAC CMS - Northside Loess Soil and GW

TASK 10137 AS 15DEC97 EF 31MAR99
OD 329 RD 12 PCT 90

Prepare/Submit Draft CMS Work Plan

TASK 10138 ES 1APR99 EF 3MAY99
OD 23 RD 23 PCT 0

EPA/TDEC Review

TASK 10139 ES 4MAY99 EF 24MAY99
OD 15 RD 15 PCT 0

Revise/Submit CMS Work Plan

TASK 11139 ES 25MAY99 EF 22JUN99
OD 20 RD 20 PCT 0

EPA/TDEC Review/Approval

TASK 10140 ES 24MAY99 EF 1MAR00
OD 192 RD 192 PCT 0

Prepare/Submit Draft CMS Report

TASK 10141 ES 2MAR00 EF 26APR00
OD 40 RD 40 PCT 0

EPA/TDEC Review/Approval

TASK 11141 ES 27APR00 EF 8JUN00
OD 30 RD 30 PCT 0

Revise/Submit CMS Report

TASK 12141 ES 9JUN00 EF 22JUN00
OD 10 RD 10 PCT 0

EPA/TDEC Review/Approval

TASK 10142 ES 23JUN00 EF 7JUL00
OD 10 RD 10 PCT 0

Submit Remedy Proposal

TASK 10143 ES 10JUL00 EF 4AUG00
OD 20 RD 20 PCT 0

EPA/TDEC Review and Approval

TASK 10144 ES 7AUG00 EF 30OCT00
OD 60 RD 60 PCT 0

Remedy Selection (Permit Mod)

TASK 10145 ES 31OCT00 EF 1FEB01
OD 60 RD 60 PCT 0

Prepare and Submit Remedy Design

TASK 10146 ES 2FEB01 EF 1MAR01
OD 20 RD 20 PCT 0

EPA/TDEC Review

TASK 10147 ES 2MAR01 EF 29MAR01
OD 20 RD 20 PCT 0

Revise and Submit Remedy Design

TASK 10148 ES 30MAR01 EF 12APR01
OD 10 RD 10 PCT 0

EPA/TDEC Review and Approval

TASK 10149 ES 13APR01 EF 28OCT02
OD 390 RD 390 PCT 0

Remedy Implementation

TASK 10150 ES 29OCT02 EF 23DEC02
OD 40 RD 40 PCT 0

Remedy Report

TASK 10151 ES 24DEC02 EF 22JAN03
OD 20 RD 20 PCT 0

EPA/TDEC Review/Approval

TASK 10152 ES 23JAN03 EF 16APR03
OD 60 RD 60 PCT 0

Remedy Complete (Permit Mod)

TASK 10153 EF 16APR03
OD 0 RD 0 PCT 0

Operation & Maintenance/Long Term Monitoring

Phase 2 - BRAC Assembly B

TASK 00201 AS 10NOV94 AF 4JAN95
OD 30 RD 0 PCT 100

Prepare and Submit Draft RFI Work Plan

			1994	1995	1996	1997	1998	1999	2000	2001	2002	2003
			Phase 2 - BRAC Assembly B									
TASK 00202	AS 5JAN95	AF 15FEB95	EPA/TDEC Review									
OD 20	RD 0	PCT 100	☐									
TASK 00203	AS 16FEB95	AF 15MAR95	Revise and Submit RFI Work Plan									
OD 20	RD 0	PCT 100	☐									
TASK 00204	AS 16MAR95	AF 27APR95	EPA/TDEC Review and Approval									
OD 20	RD 0	PCT 100	☐									
TASK 00205	AS 1MAY95	AF 19MAY95	Coordinate Field Work									
OD 15	RD 0	PCT 100	☐									
TASK 00206	AS 1MAY95	AF 13MAY95	Conduct RFI									
OD 20	RD 0	PCT 100	☐									
TASK 00207	AS 15MAY95	AF 7JUL95	Receive Analytical Data/Begin Data Validation									
OD 20	RD 0	PCT 100	☐									
TASK 00208	AS 10JUL95	AF 14AUG95	Complete Data Validation									
OD 10	RD 0	PCT 100	☐									
TASK 00209	AS 15AUG95	AF 26SEP95	Prepare and Submit Draft RFI Report									
OD 30	RD 0	PCT 100	☐									
TASK 00210	AS 27SEP95	AF 3DEC96	EPA/TDEC Review									
OD 189	RD 0	PCT 100	☐									
TASK 00211	AS 4DEC96	AF 3JAN97	Revise and Submit RFI Report									
OD 20	RD 0	PCT 100	☐									
TASK 01211	AS 6JAN97	AF 13JUN97	EPA/TDEC Review/Approval									
OD 82	RD 0	PCT 100	☐									
			Phase 2 - BRAC Assembly B SWMU 10									
TASK 00212	AS 8MAR96	AF 15MAR96	Prepare/Submit Memo Work Plan									
OD 7	RD 0	PCT 100	☐									
TASK 00213	AS 18MAR96	AF 25MAR96	EPA/TDEC Review									
OD 6	RD 0	PCT 100	☐									
TASK 00214	AS 25MAR96	AF 19JUL96	Field Investigation, Lab Anal, Data Validation									
OD 70	RD 0	PCT 100	☐									
TASK 00215	AS 22JUL96	AF 5MAY97	Prepare/Submit Draft CSI Report									
OD 171	RD 0	PCT 100	☐									
TASK 00216	AS 6MAY97	AF 11SEP98	EPA/TDEC Review/Revisions to Report									
OD 127	RD 0	PCT 100	☐									
TASK 00217	AS 14SEP98	EF 31MAR99	EPA/TDEC Review and Approval									
OD 136	RD 12	PCT 50	☐									
			Phase 3 - BRAC Assembly C									
TASK 00301	AS 10NOV94	AF 20JAN95	Prepare and Submit Draft CSI Work Plan									
OD 40	RD 0	PCT 100	☐									
TASK 00302	AS 23JAN95	AF 17MAR95	EPA/TDEC Review									
OD 20	RD 0	PCT 100	☐									
TASK 00303	AS 1MAR95	AF 10APR95	Revise and Submit CSI Work Plan									
OD 65	RD 0	PCT 100	☐									
TASK 00304	AS 11APR95	AF 27APR95	EPA/TDEC Review/Approval									
OD 20	RD 0	PCT 100	☐									
TASK 00305	AS 1MAY95	AF 12MAY95	Coordinate Field Work									
OD 10	RD 0	PCT 100	☐									

			1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	
			Phase 3 - BRAC Assembly C										
TASK 00306 OD 10	AS 15MAY95 RD 0	AF 8JUN95 PCT 100											
			Conduct CSI										
TASK 00307 OD 20	AS 9JUN95 RD 0	AF 18JUL95 PCT 100											
			Receive Analytical Data										
TASK 00308 OD 20	AS 19JUL95 RD 0	AF 28AUG95 PCT 100											
			Validate Data										
TASK 00309 OD 30	AS 25SEP95 RD 0	AF 30OCT95 PCT 100											
			Prepare and Submit Draft CSI Report										
TASK 00310 OD 85	AS 30OCT95 RD 0	AF 27FEB96 PCT 100											
			EPA/TDEC Review										
TASK 00311 OD 20	AS 28FEB96 RD 0	AF 8JUL96 PCT 100											
			Addnl Investigation, Lab Anal, Data Validation										
TASK 00312 OD 20	AS 27MAR96 RD 0	AF 16DEC96 PCT 100											
			Revise and Submit CSI Report-SWMUs 26,27 and 62										
TASK 00313 OD 90	AS 17DEC96 RD 0	AF 13JUN97 PCT 100											
			EPA/TDEC Review/Approval										
TASK 00314 OD 176	AS 8JUL96 RD 0	AF 25MAR97 PCT 100											
			Prepare/Submit Draft RFI Report - SWMUs 15 & 21										
TASK 00315 OD 523	AS 25MAR97 RD 29	EF 23APR99 PCT 90											
			EPA/TDEC Reviews/Revision to Reports										
TASK 00317 OD 15	ES 26APR99 RD 15	EF 14MAY99 PCT 0											
			EPA/TDEC Review/Approval										
TASK 00318 OD 0	ES 17MAY99 RD 0	PCT 0											
			Incorporate into BRAC CMS and/or NFA										
			Phase 3 - BRAC Assembly C SWMU 18										
TASK 00319 OD 40	AS 24OCT97 RD 0	AF 18JAN98 PCT 100											
			Prepare and Submit Draft Technical Memo RFI Work										
TASK 00321 OD 20	AS 22DEC97 RD 0	AF 19JAN98 PCT 100											
			EPATDEC Review										
TASK 00323 OD 20	AS 19JAN98 RD 0	AF 20JAN98 PCT 100											
			Revise and Submit RFI Work Plan										
TASK 00325 OD 20	AS 20JAN98 RD 0	AF 20JAN98 PCT 100											
			EPA/TDEC Review Approval										
TASK 00329 OD 5	AS 21JAN98 RD 0	AF 21JAN98 PCT 100											
			Conduct RFI Phase I Field Work										
TASK 00331 OD 20	AS 22JAN98 RD 0	AF 17APR98 PCT 100											
			Prepare and Submit Phase II RFI Work Plan										
TASK 00333 OD 25	AS 18APR98 RD 0	AF 22APR98 PCT 100											
			Conduct RFI Phase II Field Work										
TASK 00335 OD 20	AS 23APR98 RD 0	AF 12OCT98 PCT 100											
			Prepare and Submit Draft RFI Report										
TASK 00337 OD 116	AS 12OCT98 RD 43	EF 13MAY99 PCT 0											
			EPA/TDEC Review										
TASK 00339 OD 23	ES 14MAY99 RD 23	EF 6JUN99 PCT 0											
			Revise and Submit RFI Report										
TASK 00341 OD 28	ES 7JUN99 RD 28	EF 5JUL99 PCT 0											
			EPA/TDEC Review/Approval										

1994	1995	1996	1997	1998	1999	2000	2001	2002	2003
------	------	------	------	------	------	------	------	------	------

Phase 3 - BRAC Assembly C SWMU 18

TASK 00343 ES 6JUL99
OD 0 RD 0 PCT 0

Incorporate into BRAC CMS
◇

Phase 4 - BRAC Assembly D

TASK 00401 AS 9JAN95 AF 19JUL95
OD 124 RD 0 PCT 100

Prepare and Submit Draft CSI Work Plan
=====

TASK 00402 AS 21JUN95 AF 30AUG95
OD 20 RD 0 PCT 100

EPA/TDEC Review
==

TASK 00403 AS 30AUG95 AF 15SEP95
OD 20 RD 0 PCT 100

Revise and Submit CSI Work Plan
□

TASK 00404 AS 18SEP95 AF 6OCT95
OD 20 RD 0 PCT 100

EPA/TDEC Review and Approval
□

TASK 00405 AS 9OCT95 AF 13OCT95
OD 10 RD 0 PCT 100

Coordinate Field Work
|

TASK 00406 AS 16OCT95 AF 31OCT95
OD 10 RD 0 PCT 100

Conduct CSI
□

TASK 00407 AS 1NOV95 AF 8JAN96
OD 20 RD 0 PCT 100

Receive Analytical Data
==

TASK 00408 AS 8JAN96 AF 1MAR96
OD 44 RD 0 PCT 100

Validate Data
==

TASK 00409 AS 2MAR96 AF 21JUN96
OD 84 RD 0 PCT 100

Prepare and Submit Draft CSI Report
=====

TASK 00410 AS 24JUN96 AF 16DEC96
OD 20 RD 0 PCT 100

EPA/TDEC Reviews/Revisions to Reports
=====

TASK 00412 AS 17DEC96 AF 13JUN97
OD 90 RD 0 PCT 100

EPA/TDEC Review and Approval
=====

Phase 4 - BRAC Assembly D SWMU 16

TASK 00420 AS 9JAN95 AF 17JAN97
OD 124 RD 0 PCT 100

Prepare and Submit Draft CSI Work Plan
=====

TASK 00422 AS 20JAN97 AF 13MAR97
OD 20 RD 0 PCT 100

EPA/TDEC Review
==

TASK 00423 AS 13MAR97 AF 10APR97
OD 20 RD 0 PCT 100

Revise and Submit CSI Work Plan
□

TASK 00424 AS 11APR97 AF 24JUN97
OD 20 RD 0 PCT 100

EPA/TDEC Review/Approval
==

TASK 00425 AS 25JUN97 AF 15JUL97
OD 10 RD 0 PCT 100

Coordinate Field Work
□

TASK 00426 AS 16JUL97 AF 18SEP97
OD 46 RD 0 PCT 100

Conduct CSI; Receive, Validate and Present Data
==

TASK 00428 AS 1JAN98 AF 1SEP98
OD 171 RD 0 PCT 100

VCA Tank and Soil Removal Work Plan -
===== Preparation, Review, Revision and Approval; Conduct VCA Field Work

TASK 00429 AS 2SEP98 AF 2MAR99
OD 166 RD 0 PCT 100

Prepare and Submit Draft VCA/CSI Report
=====

TASK 00430 AS 3MAR99 EF 24APR99
OD 42 RD 40 PCT 0

EPA/TDEC Review
□

TASK 00431 ES 26APR99 EF 21MAY99
OD 20 RD 20 PCT 0

Revise and Submit VCA/CSI Report
□

			1994	1995	1996	1997	1998	1999	2000	2001	2002	2003		
			Phase 4 - BRAC Assembly D SWMU 16											
TASK 00432 OD 21	ES 22MAY99 RD 21	EF 12JUN99 PCT 0								EPA/TDEC Review/Approval <input type="checkbox"/>				
			Turkey Shoot VCA Soil Removal											
TASK 00440 OD 66	AS 6JUL98 RD 0	AF 9NOV98 PCT 100								Prepare/Submit Draft VCA Work Plan <input checked="" type="checkbox"/>				
TASK 00442 OD 8	AS 10NOV98 RD 0	AF 14JAN99 PCT 100								EPA/TDEC Review <input checked="" type="checkbox"/>				
TASK 00444 OD 61	AS 15JAN99 RD 19	EF 9APR99 PCT 0								Additional Sampling/Revise/Submit VCA Work Plan <input type="checkbox"/>				
TASK 00446 OD 10	ES 12APR99 RD 10	EF 23APR99 PCT 0								EPA/TDEC Review/Approval <input type="checkbox"/>				
TASK 00448 OD 25	ES 15NOV99 RD 25	EF 28DEC99 PCT 0								Conduct VCA Field Work, Receive & Validate Data <input type="checkbox"/>				
TASK 00450 OD 40	ES 29DEC99 RD 40	EF 23FEB00 PCT 0								Prepare/Submit Draft VCA Report <input type="checkbox"/>				
TASK 00452 OD 20	ES 24FEB00 RD 20	EF 22MAR00 PCT 0								EPA/TDEC Review <input type="checkbox"/>				
TASK 00454 OD 20	ES 23MAR00 RD 20	EF 19APR00 PCT 0								Revise/Submit VCA Report <input type="checkbox"/>				
TASK 00456 OD 20	ES 20APR00 RD 20	EF 17MAY00 PCT 0								EPA/TDEC Review/Approval <input type="checkbox"/>				

Exhibit C

**Summary of Response Actions Taken
and
Notice of Hazardous Substance Storage and Release**

Exhibit C: Summary of Response Actions Taken
Naval Support Activity Mid-South, Millington, Tennessee

An Initial Assessment Study (IAS) was completed at the former Naval Air Station (NAS) Memphis in 1983. Based on information from historical records, aerial photographs, field inspections and personnel interviews, twelve (12) potentially contaminated sites were identified. The IAS concluded that five of those sites warranted further investigation under the Navy Assessment and Control of Installation Pollutants (NACIP) Program. Sediment, soil, and groundwater samples were collected at these sites during the NACIP Confirmation Study/Verification Phase (CS/VP) which was conducted in 1984 and 1985. The CS/VP report recommended additional sampling at each of the sites.

NAS Memphis received RCRA Permit No. TN2-170-022-600 from USEPA Region IV in September 1986. The Hazardous and Solid Waste Amendments (HSWA) portion of the permit (HSWA-TN002) required NAS Memphis to conduct a RCRA Facility Assessment (RFA) to identify all active and inactive SWMUs on the facility. The Draft RFA report submitted in 1987 and finalized in 1990 identified 58 potential SWMUs and recommended 34 for additional study. Since then, eight more sites have been added and a formerly identified site has been divided into two sites, bringing the total number of SWMUs to 67. In September 1996, the Tennessee Department of Environment and Conservation (TDEC) issued a permit modification (Installation Identification Number TN2 17 002 2600; Permit Number TNHWS-094) to add the new SWMUs and Area of Concern (AOC) A, the Northside Fluvial Groundwater. Thus, there are 67 SWMUs and one AOC listed in the current permit. Fifty-three of the 68 sites required investigation.

As a result of the Base Closure and Realignment Act (BRAC) of 1990, in October 1993 a portion of the former Naval Air Station was deemed as excess property to be disposed. Thirty-two of the SWMUs (30 of which required investigation) and the AOC were located on the property to be transferred under BRAC. In 1994 an Environmental Baseline Survey (EBS) was conducted which color-coded areas into one of seven classifications which identified the environmental condition of the property. Sixteen additional sites were identified as "Gray Area Sites"; sites where additional information was required in order to classify the environmental condition of the property.

Since 1990, a combination of Confirmation Sampling Investigations (CSIs), RCRA Facility Investigations (RFI), Gray Area Sites Investigations, and Voluntary Corrective Actions (VCAs) have occurred. All of the SWMUs, the AOC, and the Gray Area Sites on BRAC property have been

investigated. Based on the findings of these investigations and on the voluntary corrective actions (VCAs) listed in Table 1, only the six sites listed in Table 2 require further action.

Based upon the findings of the RFI report, it appears that the fluvial deposits groundwater beneath a portion of NSA Mid-South has been contaminated by widespread disposal of small quantities of chlorinated solvents at numerous locations, but primarily in the airfield apron area. There are no water supply wells in the fluvial deposits aquifer on or within one mile of the base. The affected fluvial deposits groundwater has been designated Area of Concern (AOC) A. Based on the maximum solvent concentration detected to date (3,300 µg/L trichloroethylene), the presence of dense non-aqueous phase liquids is not suspected. Presently, the estimated area of fluvial deposits groundwater contamination associated with AOC A is 200 acres.

The RFI also indicates that the loess groundwater beneath NSA Mid-South has been contaminated by petroleum releases from a former underground storage tank (UST) at Building N-12, former USTs 304 and 1239 south of Building N-126, and aircraft fire fighting training activities associated with SWMU 5. This groundwater is essentially unusable due to insufficient yield and poor water quality. Surface soil in the Turkey Shoot Area has been contaminated by lead shot from annual recreational shooting events. Separate Corrective Measures Studies (CMSs) are currently under way for the loess and fluvial deposits groundwater, and a voluntary corrective action soil removal is planned for the Turkey Shoot Area in November 1999.

Table 3 provides the notice of hazardous substance storage and release required by CERCLA Section 120 (h)(3)(A)(i).

**Table 1 — Summary of Voluntary Corrective Actions
Naval Support Activity Mid-South, Millington, Tennessee**

Site/Facility	Year	Site/Facility Description	VCA Description
N-7	1995	Hangar associated with catapult and landing gear operations training	Four drums of PAH/SVOC-contaminated soil were removed as a result of the gray area investigation.
N-122	1995	Acetylene General Building	Removal of approximately 2 cubic yards of petroleum-contaminated soil as a result of the gray area investigation.
OL-006	1995	Open land area associated with runways including Arresting Gear 1559	Removal of a small quantity of petroleum-contaminated soil before the gray area investigation.
SWMU 1	1996	Fire Department Drill Area	Removal of 10 cubic yards of stockpiled soil contaminated with petroleum and pesticides.
SWMU 7	1996	N-126 Plating Shop Dry Well	Removal of a 10'x 10'x 6' gravel-filled dry well.
SWMU 66	1996	Radar Area Dump	Removal of empty 55-gallon drums and other non-hazardous debris.
SWMU 67	1996	Horse Pasture Dump	Removal of scrap metal, wood, and other non-hazardous debris.
SWMU 18	1996	N-112 Underground Waste Tank	Removal of a 550-gallon waste oil tank and approximately 45 cubic yards of petroleum-contaminated soil during the first phase of the VCA. Additional soil was removed in 1998.
SWMU 5	1997	Aircraft Fire Fighting Training Area	Removal of a 75'-diameter concrete fire mat, several small, concrete fire extinguisher training pits, and approximately 3,000 cubic yards of petroleum-contaminated soil.
SWMU 8	1997	Cemetery Disposal Area	Removal of approximately 240 cubic yards of stockpiled pesticide-contaminated soil.
SWMU 60	1997	Northside Landfill	Removal of approximately 230 cubic yards of petroleum-contaminated soil.
OL-006	1997	Apron Area Gasoline Pits located in an open land area associated with runways	Removal of seven fueling pits, piping, and associated 500-gallon lubricating oil tanks.
SWMU 8	1998	Cemetery Disposal Area	Emergency removal of 138 buried ethylene oxide cylinders.
SWMU 16	1998	N-94 Aboveground Waste Tanks	Removal of two ASTs that stored waste oil and waste jet fuel, approximately 100 cubic yards of petroleum-contaminated soil, and 20 cubic yards of concrete.

**Table 1 — Summary of Voluntary Corrective Actions
Naval Support Activity Mid-South, Millington, Tennessee**

Site/Facility	Year	Site/Facility Description	VCA Description
SWMU 18	1998	N-112 Underground Waste Tank	Removal of approximately 100 cubic yards of additional petroleum-contaminated soil during the second phase of the VCA.
SWMU 44	1998	N-102 Hazardous Waste Accumulation Point	Removal of approximately 12 cubic yards of petroleum-contaminated soil.
Tank 339	1998	North Fuel Farm (Tanks 336 & 337)	Removal of approximately 300 cubic yards of petroleum-contaminated soil.

Notes:

- AST — Aboveground Storage Tank
- BRAC — Base Realignment and Closure
- OL — Open land
- PAH — Polynuclear Aromatic Hydrocarbon
- SVOC — Semi-Volatile Organic Compound
- SWMU — Solid Waste Management Unit
- VCA — Voluntary Corrective Action

**Table 2 — Identified Areas of Hazardous Substance or Petroleum Contamination Requiring Further Action
Naval Support Activity Mid-South, Millington, Tennessee**

Facility	Description	BRAC Classification	Media of Concern	Approximate Area	Status
N-12	AIMD GSE Building	6(Red)	loess GW	0.5 acre	Additional GW monitoring is planned to determine whether to incorporate it into the loess CMS (draft CMS work plan has been submitted to BCT).
N-94	Former USTs 304 and 1239	5(Yellow)	loess GW	2 acres	Petroleum-contaminated soil has been removed. Follow-up GW monitoring results will be used to determine final course of action under state UST program.
SWMU 5	Aircraft Fire Fighting Training Area	6(Red)	loess GW	10 acres	Shallow GW will be addressed under loess CMS (draft CMS work plan has been submitted to BCT). Fluvial GW has been incorporated into the AOC A CMS.
SWMU 15	Former N-94 Tank Farm	5(Yellow)	loess GW fluvial GW	3.5 acres	Shallow GW will be addressed under loess CMS (draft CMS work plan has been submitted to BCT). Fluvial GW has been incorporated into the AOC A CMS.
AOC A	Northside Fluvial Groundwater	6(Red)	fluvial GW	205 acres	CMS is in progress.
OL-009	Turkey Shoot Area	5(Yellow)	surface soil	0.2 acre	Removal of an estimated 325 cubic yards of lead-contaminated soil is planned for November 1999.

Notes:

- AIMD — Aircraft Intermediate Maintenance Department
- AOC — Area of Concern
- BCT — BRAC Cleanup Team
- BRAC — Base Realignment and Closure
- CMS — Corrective measures study
- GW — Groundwater
- OL — Open land
- SWMU — Solid waste management unit
- UST — Underground storage tank

Table 3 — Notice of Hazardous Substance Storage/Release*
Naval Support Activity Mid-South, Millington, Tennessee

Substance	Regulatory Synonym	CAS Registry Number	Quantity (kg/lbs)	Dates of Storage/Release
Trichloroethene**	TCE Trichloroethylene	79-01-6	Unknown	1940s to 1990
1,1,1-Trichloroethane**	1,1,1-TCA Methyl chloroform Trichloromethylmethane	71-55-6	Unknown	1987 to 1997
Carbon Tetrachloride**	Tetrachloromethane	56-23-5	Unknown	1940s to 1980s
Methylene Chloride**	Dichloromethane Methylene dichloride	75-09-2	Unknown	1940s to 1990s
Chromic Acid**	Chromic (VI) Acid	7738-94-5	Unknown	1956 to 1996
Sodium Hydroxide**	Caustic Soda	1310-73-2	Unknown	1940s to 1990s
Ethylene Oxide**	Oxane Dimethylene oxide	75-21-8	Unknown	1960s to 1998
Lead**	NA	7439-92-1	Unknown	1942 to 1990s
Cadmium**	NA	7440-43-9	Unknown	1951 to 1978
Nickel**	NA	7440-02-0	Unknown	1951 to 1978
Chlorine**	NA	7782-50-5	Unknown	1940s to 1990s
Benzene**	Benzol Cyclohexatriene	71-43-2	Unknown	1940s to 1990s
Xylenes**	Dimethylbenzene	1330-20-7	Unknown	1940s to 1990s

*This notice includes only hazardous substances known to have been stored or released in excess of reportable quantities, based on a complete search of agency files, in accordance with the requirements of 40 CFR Part 373. Information regarding constituents that have been detected in soil and groundwater, but for which records do not indicate storage, release or disposal in excess of reportable quantities can be found in the applicable Environmental Baseline Survey for Transfer (EBST) and/or RCRA Facility Investigation Report (RFI) for this facility.

**Known to have been released based on analytical data and/or knowledge of operations.

Exhibit D

Public Comment Notices

PUBLIC NOTICE

The Navy intends to transfer property and facilities comprising a portion of Naval Support Activity (NAVSUPPACT) Mid-South (formerly NAVSUPPACT Memphis) to the City of Millington. This property, previously a Naval Air Station, was used to support an airfield and aircraft maintenance needs for the Department of Defense. Currently, the Navy is undertaking certain environmental investigative and remedial activities at NAVSUPPACT Mid-South to address hazardous substance contamination on this property. A document called the Covenant Deferral Request (CDR) has been prepared which, if approved by the Governor of Tennessee, will allow the transfer to take place prior to the completion of remedial activities.

This draft document is available for public review. Copies may be viewed at the Shelby County Public Library (Millington Branch, 4858 Navy Road), NAVSUPPACT Mid-South (see Ms. Sue Hosmer Millican, Public Affairs Office, Building 455), and the Tennessee Department of Environment and Conservation Field Office in Memphis (see Mr. Jim Morrison, Suite E-645, Perimeter Park, 2510 Mt. Moriah).

Comments should be postmarked by November 13, 1998, and addressed to:

Public Affairs Office
Attn: Sue Millican
Naval Support Activity Mid-South
5720 Integrity Drive
Millington, TN 38054-5045

Notice published as follows:

The Commercial Appeal, Sunday, 11 Oct 98
The Commercial Appeal, Thursday, 15 Oct 98
The Millington Star, Wednesday, 14 Oct 98

PUBLIC NOTICE

The Navy intends to transfer property and facilities comprising a portion of Naval Support Activity (NAVSUPACT) Mid-South (formerly NAVSUPACT Memphis) to the City of Millington. This property, previously a Naval Air Station, was used to support an airfield and aircraft maintenance needs for the Department of Defense. Currently, the Navy is undertaking certain environmental investigative and remedial activities at NAVSUPACT Mid-South to address hazardous substance contamination on this property. A document called the Covenant Deferral Request (CDR) has been prepared which, if approved by the Governor of Tennessee, will allow the transfer to take place prior to the completion of remedial activities.

Preliminary comments have been received from the U.S. Environmental Protection Agency (Region IV), and Tennessee Department of Environment and Conservation. Changes have been made to the original document based on these comments, and the draft document has been released again for public review.

Copies may be viewed at the Shelby County Public Library (Millington Branch, 4858 Navy Road), NAVSUPACT Mid-South (see Ms. Sue Hosmer Millican, Public Affairs Office, Building 455), and the Tennessee Department of Environment and Conservation Field Office in Memphis (see Mr. Jim Morrison, Suite E-645, Perimeter Park, 2510 Mt. Moriah).

Comments should be postmarked by April 7, 1999 and addressed to:
Public Affairs Office
Attn: Sue Millican
Naval Support Activity Mid-South
5720 Integrity Drive
Millington, TN 38054-5045

Notice published as follows:

The Commercial Appeal, Sunday, 21 Mar 99
The Millington Star, Wednesday, 24 Mar 99

Exhibit E

Public Comments



State of Tennessee
Department of Environment and Conservation
Policy office
20th Floor, L&C Tower
401 Church Street
Nashville, Tennessee 37243-0454

VIA EXPRESS MAIL

May 12, 1999

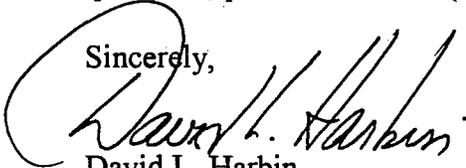
Stephen Beverly, Esq.
Office of Counsel, Southern Division
Naval Facilities Engineering Command
2155 Eagle Drive
North Charleston, South Carolina 29419-9010

RE: Millington Naval Air Station
Responses to draft Covenant Deferral Request

Dear Mr. Beverly:

The Department has received and reviewed the Navy's latest draft of the Covenant Deferral Request (CDR) for the Naval Support Activity Mid-South. We understand that this latest draft CDR contains only changes recommended by the United States Environmental Protection Agency. Since the State's last review and upon the receipt of new data, it appears that the first sentence of the second paragraph of Section III is incorrect. The sentence should now read "[t]he highest concentration of TCE contamination detected in the fluvial deposits aquifer was **4,400 parts per billion (ppb).**" *Emphasis added.* With this change, the draft CDR is acceptable and the Department will recommend to the Governor that he sign the CDR. Please forward to me a final CDR for signing. A letter requesting the Governor's concurrence should be sent directly to his office with a copy to me. As I informed you in earlier correspondence, the acceptance cover letter that accompanies the signed CDR from the Governor will be worded the same as the acceptance letter for the Navy's Bristol NWIRP Site. If you have any questions, please call me at (615) 532-0144.

Sincerely,


David L. Harbin

Assistant General Counsel

cc: Honorable George Harvell, Jr., Mayor
Chad Jenkins, Office of U.S. Representative Tanner



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-3104

4WD-FFB

November 12, 1998

David L. Porter
BRAC Environmental Coordinator
NSA Memphis
P. O. Box 190010
2155 Eagle Drive
North Charleston, South Carolina 29419-0910

SUBJ: Comment on Draft Covenant Deferral Request or NSA Mid-South

Dear Mr. Porter:

This letter is in response to the Navy's Draft Covenant Deferral Request (CDR), dated October, 1998, for transfer of Airfield Property at the Naval Support Activity (NSA) Mid-South to the City of Millington.¹ As per the Draft CDR provided, the Department of the Navy intends to transfer Airfield Property and Facilities, consisting of approximately 1,858 acres of land and roughly seventy (70) buildings or other structures at NSA Mid-South, to the City of Millington.

EPA generally will not consider a deferral request unless the CDR provides the information of a sufficient quality and quantity to EPA which will support its request for a deferral and provide a basis for EPA to make its determination.² The following are comments which address this issue of sufficiency of quality and quantity of information.

COMMENTS

¹Review of this request was conducted under CERCLA § 120(h) and EPA Guidance on the Transfer of Federal Property by Deed Before All Necessary Response Action Has Been Taken Pursuant to CERCLA Section 120 (h)(3) - Early Transfer Authority Guidance, June 16, 1998 ("Early Transfer Authority Guidance" or "Guidance").

²Early Transfer Authority Guidance, §IV.

1. EPA's determination that property is suitable for transfer is based upon finding that:³
 1. the property is suitable for transfer for the use intended by the transferee, and the intended use is consistent with protection of human health and the environment;
 2. the deed contains the Response Action Assurances set forth in CERCLA §120(h)(3)(C)(ii);
 3. The federal agency requesting deferral by provided notice, by publication in a newspaper of general circulation in the vicinity of the property, of the proposed transfer, and of the opportunity for the public to submit comments; and
 4. The deferral and the transfer of the property will not substantially delay necessary response action at the property.

In order to support EPA's finding that (3) has been satisfied, we request that the notice language and the name of the newspaper of general circulation which the Navy intends to utilize be included in this CDR. In satisfaction of (4), we request a statement that the deferral and transfer of the property will not substantially delay necessary response action at the property. Comments pertaining to items 1 and 2 are addressed below.

2. EPA considers a CDR complete when it contains all of the following information: property description; nature/extent of contamination; analysis of intended future land use during the referral period; results from a CERCLA Risk Assessment; response/corrective action; operation and maintenance requirements; deed contents that satisfy CERCLA §120(h)(3)(C). The following information is incomplete.

- **Description of Property to be Transferred by Deed.** Appendix A depicts the parcels being conveyed and those being retained by the Navy. It shows, further, the areas impacted by groundwater and lead shot contamination. We request the following statement to clarify which parcels are being submitted for covenant deferral: "Though the entire extent of the Airfield and Non-Airfield parcels are depicted in Appendix A, the Navy is submitting for covenant deferral request only those areas outlined and described in Appendix A as being characterized by groundwater contamination and lead-contaminated soil." It would also be helpful if SWMU 5 and AOC A were labeled on the map in Appendix A.

³See CERCLA §120(h)(3)(C)(i) for exact statutory requirements.

- **Nature and Extent of Hazardous Substance Contamination.** Per DoD Guidance,⁴ the DoD Environmental Condition Category should be included. EPA evaluates CDRs with a presumption that the CDR should include the results from a completed RFI.

It should be noted in this section that the extent of contamination at AOC A is yet to be fully defined. The actions to be taken to address the extent of contamination at AOC A should also be described.

The CDR should reference and/or include the reports and the appropriate sections where the nature and extent of contamination is delineated.

- **Analysis of Intended Future Land Use.** If the property intended for residential use is not being transferred via the CDR mechanism, it should be clearly stated that reference to this property is for information purposes only, and is not intended to be transferred thereby.

Per DoD policy to demonstrate compliance with Section 120(h), we request that a statement that the property is suitable for the use intended and that the use is consistent with protection of human health and the environment be placed in this section or in the Suitability Declaration.

- **Results from a CERCLA Risk Assessment.** A risk assessment was not conducted for AOC A as is stated in the CDR. This section should discuss the rationale for not performing a risk assessment for AOC A.
- **Contents of Deed.**

Section VII. Content of Deed/Transfer Agreement. Subpart a. Notice. (p. 5) The phrase “the type and quantity of such hazardous substances” should be added after “to include if known.” To assist the EPA in commenting on whether the CDR gives meaningful notice of the nature of hazardous substance contamination of the property, the CDR should enumerate which sections of the EBST constitute the “pertinent sections” attached to the deed as an exhibit.

Subpart d(3). In the second line, delete “a party occupying the Property shall not hinder” and insert “neither it nor any party occupying the Property shall hinder.” The last word of the paragraph, “required” should be deleted from the text.

⁴DoD Guidance on the Environmental Review Process Required to Obtain the Finding of Suitability for Use of Early Transfer Authority of Property Not on the National Priorities List as Provided by CERCLA Section 120(h)(3)(C).

Subpart d(4). The Navy should state, for the purpose of informing the public and the regulatory agencies, whether they are proposing that Appendix B of the CDR is equivalent to the "projected work completion schedule" which will be attached as an exhibit to the deed. While we assume that this is the Navy's intent, without an explicit statement to this effect, EPA would consider that the assurance as written does not satisfy CERCLA §120(h)(3)(C)(ii)(III).

Subpart d(5). Is 2015 the Project End Date? Please clarify whether the Navy is suggesting that there will be no costs after 2015 associated with the monitoring of institutional controls and long term groundwater monitoring to ensure that the uses of the property remain protective of human health and the environment. If so, the CDR should expressly state and justify this assertion. If not, the CDR should support projecting long-term monitoring costs only to 2015.

- **Responsiveness Summary.** EPA reserves the right to provide final regulatory comments to the Navy upon review of the Navy's response to public comments.
3. We request more information about the nature of the Public Benefit Conveyance. Specifically, is the Federal Aviation Administration, as Cooperating Agency, the Sponsoring Federal Agency (SFA) to whom the City of Millington has applied to become a Public Benefit Recipient? Agreements between the Navy/DoD and the SFA or the SFA and the City of Millington, including memoranda of agreement and transfer documents, may include information relevant to the protection of human health and the environment.
 4. Missing documents and/or attachments, generally: Our comments, draft in nature, will be more meaningful when we are provided complete documents. We reserve the right to revise our comments based upon the information contained in the missing sections.
 5. EPA should request the specific legal authority within this jurisdiction (for example, statutes, case law citations, legal opinions) on which the Navy relies to support the enforceability of the use restrictions over the life of the remedy.
 6. In addition to the above, the following should be addressed before we can concur that CERCLA §120(h) has been satisfied:
 - A contract for sale or transfer of the property must provide notice of the type and quantity of hazardous substances which were stored, released, or disposed on the property, and the time at which such storage, release, or disposal took place. This notice must be accompanied by the following statement, prominently displayed, from 40 CFR 373.3:

The information contained in this notice is required under the authority of regulations promulgated under section 120(h) of the Comprehensive Environmental Response, Liability, and Compensation Act (CERCLA or

“Superfund”) 42 U.S.C. section 9620(h).

The Navy should consult 40 CFR 373.3 for the exact information required by the notice.

- The Navy should be put on notice that a Public Benefit Recipient may be entitled to indemnification under Section 330 of the National Defense Authorization Act for Fiscal Year 1193, Public Law 102-484, as amended (10 U.S.C. §2687 Note).
- EPA requests executed deeds to ensure the inclusion of any unresolved regulatory comments and in order to properly augment our records.

In conclusion, if the military chooses not to respond to these comments, EPA should consider characterizing our comments as "unresolved regulatory comments" pursuant to DoD policy on FOSTs, and have said comments placed as an attachment to the FOST. Lastly, DoD should be placed on notice that their failure to comply with the above-delineated CERCLA requirements, may subject the Facility to citizen suits under CERCLA § 310 for failure to perform specified, non-discretionary duties.

Sincerely,



Brian Donaldson

Environmental Engineer

cc: Martha Brock, EAD
Jim Morrison, TDEC



State of Tennessee
Department of Environment and Conservation
14th Floor, L&C Tower
401 Church Street
Nashville, Tennessee 37243-1530

February 2, 1999

Stephen Beverly, Esq.
Office of Counsel, Southern Division
Naval Facilities Engineering Command
2155 Eagle Drive
North Charleston, South Carolina 29419-9010

RE: Millington Naval Air Station
Responses to draft Covenant Deferral Request

Dear Mr. Beverly:

The State has reviewed the Navy's latest draft of the Covenant Deferral Request (CDR) for the Naval Support Activity Mid-South. We appreciate the Navy's efforts to accommodate the concerns we discussed at our December meeting. Although I do not anticipate any additional revisions, I have not received comments from everyone reviewing the draft CDR. If I receive any additional comments, I will forward them to you as soon as possible.

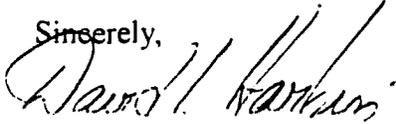
The State's suggested revisions are attached. The revisions are marked (strike and underline). We consider these revisions to be minor as they only reflect the Navy's obligations required by federal law. In short, these suggested revisions are:

1. The State is unwilling to waive or otherwise limit any of its claims, authorities or rights it may have against the Navy. As the State has indicated before, the State shall hold the Navy liable for any and all response actions on the property under applicable state and federal laws including CERCLA. Any arrangement that the Navy has with the City of Millington is independent of the Navy's statutory clean up obligations.
2. Pursuant to CERCLA, Executive Order # 12580 and EPA regulations, the Department of Defense, as the designated federal Natural Resource Trustee, is required to carry out an assessment of any natural resource damages and notify the State of such damages. Therefore, instead of insisting the Navy fund an assessment to be conducted by the State, we are simply asking the Navy to

acknowledge its obligation to carry out an assessment. I have enclosed Executive Order # 12580 and the EPA regulations for your information. Additionally, I have enclosed the Defense Distribution Depot Memphis Federal Facility Agreement that contains similar NRDA wording as we are suggesting to be included in this CDR.

Please call me at (615) 532-0144 if you have any questions.

Sincerely,



David L. Harbin
Assistant General Counsel

cc: Chad Jenkins, Office of U.S. Representative Tanner

**COVENANT DEFERRAL REQUEST
FOR
NAVAL SUPPORT ACTIVITY, MID-SOUTH
MILLINGTON, TENNESSEE**

I. Background

In accordance with actions taken pursuant to the Defense Base Closure and Realignment Act of 1990, the former Naval Air Station (NAS), Memphis, has been operationally closed and realigned into the Naval Support Activity (NSA) Mid-South. This realignment made the northern portion of the former NAS Memphis available for community reutilization. Both environmental investigation and clean-up activities have been ongoing onboard the former NAS Memphis since 1983. However, because certain response activities remain to be completed on portions of the property being made available for community reuse, federal law requires that the Governor of the State of Tennessee approve any proposed deed transfer of those areas to any non-federal, non-potentially responsible party.

Section 120(h)(3)(C) of the Comprehensive Response, Compensation and Liability Act of 1980 (CERCLA) (42 U.S.C. 9601 et. seq.) sets forth the specific conditions upon which State approval of early (i.e., pre-final remediation complete) transfers of federal facilities should be granted. This request is intended to facilitate the granting of such approval by Governor Sundquist and is consistent with Department of Defense (DoD) guidance for the early transfer of DoD facilities like NSA Mid-South which are not on the Environmental Protection Agency's (U.S. EPA's) National Priorities List (NPL). The format used comes from guidance developed by U.S. EPA for the early transfer of federal NPL facilities.

Approval of this deferral request by Governor Sundquist will facilitate the development and execution by the Navy of a *Finding Of Suitability for Transfer (FOST)*. The *FOST* will address all environmental matters affecting the overall suitability of the property and facilities intended for transfer to include those matters not specifically required by law or DoD policy to be encompassed under this deferral request (e.g., presence of asbestos containing materials or lead-based paint in buildings or any sites with residual petroleum contamination).

II. Description of Property to be Transferred by Deed

The entire property to be deed transferred (only portions of which have any hazardous substance contamination) comprises approximately 1,858 acres of land and roughly seventy (70) buildings or other structures situated within the northern portion of NSA Mid-South. It is contemplated that this property will be conveyed through two mechanisms, a Public Benefit Conveyance (PBC) of 537 acres known as the "Airfield Parcel" to the City of Millington for use by the Millington Municipal Airport Authority and 1,321 acres known as the "Non-Airfield Parcel" to the City of Millington for use by the

Millington Industrial Development Board, through an Economic Development Conveyance (EDC). The areas of hazardous substance contamination on both parcels are depicted in ***Exhibit A to this deferral request***. Land surveys will be conducted prior to the deed transfer of either parcel to delineate these areas from those ***uncontaminated areas also depicted in Exhibit A which fall outside*** the scope of this ***deferral*** request.

The Airfield Parcel contains the primary runway; taxiways; clear zones; aircraft parking apron; two aircraft hangars, and numerous other airfield support structures in addition to open land. The Non-Airfield Parcel surrounds the Airfield Parcel, and consists of open land, recreational facilities, as well as various other facilities and buildings which supported the operation of the former Air Station. A complete listing of the facilities located on each parcel is included in ***Environmental Baseline Survey for Transfer – June 1997*** (EBST) prepared to assess the environmental condition of both parcels. That document, which is currently being updated to reflect the latest site data collected, will be provided to the City of Millington prior to deed transfer.

III. Nature and Extent of Hazardous Substance Contamination

The investigation of hazardous substance contamination at NSA Mid-South has revealed primarily one concern, that being solvent contamination, chiefly trichloroethylene (TCE), in portions the fluvial deposits aquifer which underlie the facility. ***While the lateral extent of this contamination has yet to be fully defined, there is currently no evidence of any off-site contaminant migration.*** The fluvial deposits aquifer has not previously been used as a source of drinking water for NSA Mid-South. Based on all data collected to date, there is no basis for concluding that the underlying Memphis aquifer, a partial source for NSA Mid-South's potable water, has been impacted by such contamination. ***This data can be found in the groundwater well sampling and monitoring data technical reports and memoranda prepared by the Navy for this facility. This same data further*** indicates that the Cockfield/Cook Mountain Formations confining layer, which is present between the fluvial deposits aquifer and the deeper Memphis aquifer, has historically and should in the future, adequately protect the Memphis aquifer from the downward movement of ***any contamination in the fluvial deposits aquifer.***

The highest concentration of TCE contamination detected in the fluvial deposits aquifer was 3,300 parts per billion (ppb). The majority of samples analyzed indicate concentrations of less than 100 ppb. The U.S. EPA established Maximum Contaminant Level (MCL) for TCE in drinking water is 5 ppb. Although the fluvial deposits aquifer has not historically been used as a drinking water source, it is classified under Tennessee regulations as a drinking-water aquifer making the 5 ppb MCL the applicable cleanup goal for this aquifer. The random distribution of the TCE contamination discovered, coupled with site-specific hydrogeology, appear to limit the range of practical remedial alternatives to address such contamination. However, those alternatives still need to be fully evaluated. The areas of known hazardous substance contamination in groundwater are also reflected in ***Exhibit A.***

The EBST prepared by the Navy classified the various portions of the surplus property and improvements on NSA Mid-South into one of seven environmental condition of property classifications as follows:

- **Category 1 / White** - Areas where no storage, release or disposal of hazardous substances or petroleum products has occurred (including no migration of these substances from adjacent areas).
- **Category 2 / Blue** - Areas where only the storage of hazardous substances or petroleum products has occurred (but where no release, or disposal, or migration from adjacent areas has occurred).
- **Category 3 / Light Green** - Areas where storage, release, disposal, and/or migration of hazardous substances or petroleum products has occurred but at concentrations that do not require a removal or remedial action.
- **Category 4 / Dark Green** - Areas where storage, release or disposal and/or migration of hazardous substances or petroleum products has occurred, and all removal or remedial actions to protect human health and the environment have been taken.
- **Category 5 / Yellow** - Areas where release or disposal of hazardous substances has occurred and removal or remedial actions are underway, but all required remedial actions have not yet been taken.
- **Category 6 / Red** - Areas where either a release of hazardous substances has occurred, but required actions have not yet been implemented.
- **Category 7 / Grey** - Areas that are unevaluated or require additional evaluation.

The following table summarizes the current status of those particular sites where hazardous substance (HS) investigative and/or remedial measures still need to be completed *and their corresponding property condition color designation*.

Site	Description	Site Status / Color Designation
SWMU 5	Former Aircraft Fire Fighting Training Area (Non-Airfield Parcel)	<u>Status</u> Portion of fluvial deposits aquifer is contaminated with carbon tetrachloride. This site will be further investigated and then incorporated into the AOC A Corrective Measures Study as necessary. <u>Color Designation:</u> Red
Turkey Shoot	Former VFW Turkey Shoot Area (Non-Airfield Parcel)	<u>Status</u> Surface soil contaminated with lead, which poses a possible ecological risk to the American Robin and short-tailed shrew (or similar species). Removal of lead contaminated soil currently scheduled for <i>second quarter of FY1999</i> . <u>Color Designation:</u> Red
AOC A	Northside Fluvial Deposits Groundwater (area of contamination in both Airfield and Non-Airfield Parcels, primarily around aircraft parking aprons)	<u>Status</u> Portion of fluvial deposits aquifer contaminated with chlorinated solvents. Fluvial deposits aquifer contamination has been incorporated into the AOC A Corrective Measures Study (CMS) currently underway. <u>Color Designation:</u> Red

IV. Analysis of Intended Future Land Use

The Millington Base Reuse Committee (Local Redevelopment Authority), has a Reuse Plan, *Base Reuse & Economic Development Plan, Memphis Naval Air Station, Millington, Tennessee, Final Report, (29 August 1995)*, which will serve as the blueprint for community reuse of the parcels in question and their associated facilities. This plan calls for the use of the former airfield as a municipal airport, which will serve as one component of a larger combined industrial / business / air park. The goal of the Committee's Reuse Plan is to maintain the option of operating an airport, while providing diversity to support additional job-generating industrial activities, should the airport later prove to be economically infeasible to operate. With the exception of one *parcel located* north of the former Naval Hospital *which is distant from the above identified sites and not covered under this deferral request*, residential reuse is not planned for any portion of the *surplus property* to be conveyed *to the City for reuse*.

V. Results of Risk Assessments Performed

Risk assessments have been performed in conjunction with investigative activities conducted at each Solid Waste Management Unit (SWMU) or Area of Concern (AOC) with identified hazardous substance contamination. The results of these assessments may be summarized as follows:

1. **SWMU 5:** Potential future human health risks from the hazardous substance contamination associated with this site would be from exposure to groundwater from the fluvial deposits aquifer beneath the site. There is currently no direct exposure pathway for such contamination because there are no water supply wells on the property which utilize the fluvial deposits aquifer. All water used for drinking, irrigation or industrial process purposes is currently obtained through the Navy's potable water system which draws from the Memphis and Ft. Pillow aquifers. It is believed that any risk associated with the presence of such subsurface contamination may effectively be managed through the utilization of appropriate deed restrictions to prohibit the installation of shallow water supply wells for the extraction or usage of groundwater from the fluvial deposits aquifer unless subsequent testing shows that any remaining contamination has fallen to levels determined to be safe for human consumption (i.e., below the applicable MCL). These restrictions will apply to known areas of groundwater contamination and within a buffer zone to take into account any movement of contamination laterally down gradient over time. Although separately considered, ecological risk was not identified as a concern at this site.
2. **Former VFW Turkey Shoot Area:** The risk assessment conducted for this site focused on both those potential human health and ecological risks associated with the presence of lead shot in soils. Residual lead concentrations were discovered in excess of the U.S. EPA's lead action level for residential land usage of 400 milligram per kilogram (mg/kg) but were below calculated human health risk associated with assumed commercial / industrial usage of this property. The assessment conducted also noted that the bio-absorption of lead is generally limited when consumed in shot form. The only ecological risk associated with the contamination found at this site was potential

adverse impact to the American Robin and short-tailed shrew (or similar species) which might consume the lead shot. That assessment was based upon the highest lead concentration identified on any portion of the site and hence, may not be truly representative of actual ecological risk. Nonetheless, it is the Navy's intent to eliminate potential human health and/or ecological risk by removing shot and lead-contaminated soil below 400 mg/kg. ***Removal activities will commence after the Navy has obtained Tennessee Department of Environment and Conservation (TDEC) approval of the removal workplan recently submitted in connection with this site.***

3. **AOC A:** The risk assessment for this site focused on groundwater in the fluvial deposits beneath and extending out from the aircraft apron area situated on the Airfield Parcel where chlorinated solvent contamination has been discovered. As reflected in ***Exhibit A***, groundwater contamination associated with this site also extends partly beneath the Non-Airfield Parcel.

As is the case with SWMU 5, there is currently no direct exposure pathway for the groundwater contamination at this site because there are no water supply wells on the property which utilize the fluvial deposits aquifer. Similarly, all water used for drinking or other purposes is supplied through the Navy's potable water system which draws from the Memphis and Ft. Pillow aquifers. It is believed that any risk associated with the presence of groundwater contamination at this site may effectively be managed through the utilization of appropriate deed restrictions to prohibit the installation of shallow water supply wells without prior Government approval or the future usage of such ground waters unless subsequent testing shows that any remaining contamination has fallen to levels safe for human consumption. All groundwater restrictions will apply to known areas of contamination and within a buffer zone to take into account any movement of contamination laterally down gradient over time. Upon evaluation, ecological risk was not identified as a concern at this site

VI. Response / Corrective Action and O & M Requirements

The *Corrective Action Management Plan (CAMP)* for NSA Mid-South, Revision 4, dated 23 October 1997, provides the strategy, schedule, and timeline for implementing the corrective action program. In summary, the CMS for the fluvial deposits groundwater is scheduled to be completed in 1999, with remedy implementation (presumed to be natural attenuation) to follow. Operation and Maintenance / Long-Term Monitoring will follow as necessary. The projected timeline for the selection and completion of remediation, as taken from the CAMP and updated, is attached as ***Exhibit B to this deferral request.***

VII. Contents of Deed / Transfer Agreement

As required by CERCLA ***Section 120(h)(3)(A)***, the ***Navy shall include the following language*** in the quitclaim deed(s) or other transfer document(s) which ***shall*** convey title to the Airfield and Non-Airfield parcels to the City of Millington as Grantee. ***The Navy may make minor, non-substantive changes to such language, but will advise the appropriate TDEC representatives of the of any such changes prior to closing.***

a. Notice:

In accordance with Section 120(h)(3)(A)(i) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA), as amended, (42 U.S.C. 9620(h)(3)(A)(i)), you are advised that ***Exhibit C*** to this deed ***summarizes pertinent information from the Environmental Baseline Survey for Transfer - June 1997*** (EBST) prepared to assess the overall environmental condition of the property which provides all available information based upon a complete search of agency files of those hazardous substances known to have been stored for one year or more, released or disposed of on the property, to include if known, ***the type and quantity of such hazardous substances***, the date such storage, release or disposal took place and a description of all remedial action(s) taken.

b. Covenant:

In accordance with Section 120(h)(3)(A)(ii) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA), as amended, (42 U.S.C. 9620(h)(3)(A) (ii)), the United States warrants that it shall take any additional remedial action found to be necessary with regards to any hazardous substance(s) remaining on the property at the time of conveyance. This covenant shall not apply in any case in which any response action required is the result of an act or failure to act of the Grantee or its successors and assigns which results in a release of hazardous substances after the date of conveyance.

c. Access:

In accordance with Section 120(h)(3)(A)(iii) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA), as amended, (42 U.S.C. 9620(h)(3)(A) (ii)), the United States reserves the right to access all portions of the Property for future environmental investigation, remediation or other corrective actions. This reservation includes the right of access to and use of, to the extent permitted by law, available utilities at reasonable cost to the United States. These rights shall be exercisable in any case in which a remedial action, response action or corrective action is found to be necessary after the date of conveyance of the Property, or in which access is necessary to carry out a remedial action, response action or corrective action on adjoining property. Pursuant to this reservation, the United States and the State of Tennessee and their officers, agents, employees, contractors and subcontractors shall have the right (upon reasonable notice to the Grantee or the then owner and any authorized occupant of the Property) to enter upon the Property and conduct investigations and surveys, to include drillings, test-pitting, borings, data and record compilation, and other activities related to environmental investigation and to carry out remedial or removal actions as required or necessary under applicable authorities, including but not limited to monitoring wells, pumping wells, and treatment. Any such entry, including such activities, responses or remedial actions, shall be coordinated with the Grantee or its successors assigns, and tenants and shall be performed in a manner which minimizes interruption with Grantee's activities on the property.

d. ~~Response Action Assurances~~ Other Provisions:

~~In accordance with CERCLA Section 120(h)(3)(C),~~ The following ~~response action assurance provisions~~ will also be included in the quitclaim deed(s) or other transfer document(s) which shall convey title to the Airfield and Non-Airfield parcels to the City of Millington as Grantee. *The Navy may make minor, non-substantive changes to such provisions, but will advise the appropriate TDEC representatives of any such changes prior to closing.*

1. *Grantee covenants and agrees for itself and its lessees, licensees, successors or assigns to any interest to the property, or part thereof, that use of the property shall be limited to nonresidential, industrial uses to include any office or similar use incidental to industrial uses if such incidental use is permitted by applicable regulatory authorities without requiring further environmental remediation beyond that required for industrial use of the property. Prohibited residential uses include, but are not limited to, any child care, pre-school, playground or any form of housing.*

In the event the Grantee or its lessees, licensees, successors or assigns to any portion of the property desire to use the property for any use other than industrial use, then Grantee or its lessees, licensees, successors or assigns shall perform all additional environmental remediation required by law or applicable regulatory authorities for such other uses and shall further comply with all laws, rules, regulations and ordinances pertaining thereto, including but not limited to zoning requirements and the requirements of all applicable regulatory authorities. All costs associated with any such additional environmental remediation necessary for other than industrial use shall be the sole responsibility of the owner, its lessees, licensees, successors or assignees, without cost whatsoever to the Grantor.

2. *Grantee covenants and agrees for itself, its lessees, licensees, successors or assigns to any interest to the property, or part thereof, that it will (i) provide written notice to the United States of its intent to use the property for anything other than industrial use (ii) provide a description of its plans for undertaking any environmental investigation and/or cleanup activities necessary to permit such a change in land usage, and (iii) ensure that such activities will not conflict with any ongoing or future remedial activities to be taken by the United States or in any way serve to adversely affect any remedial remedies previously put in place by the United States on the property.*
3. *Grantee covenants and agrees for itself and its lessees, licensees, successors or assigns to any interest to the property, or part thereof that it shall not construct or permit to be constructed any well, and shall not extract, utilize, consume or permit to be extracted, any water from the aquifer below the surfaces of the ground within the boundary of the Property for the*

purpose of human consumption, or other use, unless such groundwater has been tested and found to meet applicable environmental standards for human consumption, or such other use, and such owner or occupant shall first have obtained written approval of the United States. The costs associated with obtaining use of such water, including, but not limited to, the costs of permits, studies, analysis or remediation, shall be the sole responsibility of the Grantee, its successors and assigns, without cost whatsoever to the United States.

4. ***Grantee covenants and agrees for itself and its lessees, licensees, successors or assigns to any interest to the property, or part thereof*** that it shall not excavate or conduct any other soil disturbing activities within those areas of known or suspected surface or subsurface soil contamination identified in the Environmental Baseline Survey for Transfer (EBST) provided to the Grantee without prior written approval of the United States. Any costs associated with the need to obtain any permits or to utilize personal protective equipment or to undertake other environmental or worker health and safety measures in compliance with applicable laws or regulations when dealing with potentially contaminated soils in such areas shall be the sole responsibility of the Grantee, its lessees, licensees or successors and assigns, without cost whatsoever to the United States.
5. ***Grantee covenants and agrees for itself, its lessees, licensees, successors or assigns to any interest to the property, or part thereof, that it shall comply with the provisions of any health and safety plan put into effect by the United States in connection with any ongoing or future environmental investigative and/or remedial activities to be undertaken by the United States on the property.***
6. ***Grantee covenants and agrees for itself and its lessees, licensees, successors or assigns to any interest to the property, or part thereof,*** that it shall not hinder or prevent the United States from constructing, upgrading, operating, maintaining and monitoring any groundwater treatment facilities and groundwater monitoring network or engage in any activity that will disrupt or hinder further remedial investigation, response actions or oversight activities on the Property or adjoining property required.
7. ***Grantee covenants and agrees for itself and its lessees, licensees, successors or assigns to any interest to the property, or part thereof that it shall not interfere with any future effort(s) by the Navy to obtain State and/or U.S. EPA concurrence on the scope of any proposed site investigative or remedies measures intended to fulfill its CERCLA or HSWA permit related environmental cleanup obligations on the property. Grantee, its lessees, licensees, or successors and assigns shall not be precluded under this provision from providing oral or written comments on any proposed site investigative efforts or remedies to the NSA Mid-South Restoration Advisory Board (RAB) at any scheduled RAB meeting or to the BRAC Cleanup Team (BCT) via the Navy representative to that team or to formally comment on any proposed modifications to the Navy's HSWA permit during any associated public comment period.***

8. **Grantee covenants and agrees for itself and its lessees, licensees, successors or assigns to any interest to the Property, or part thereof that it shall provide written notice to the United States of any subsequent sale, assignment or lease of the property, or any portion thereof, and provide contact information concerning the new owner or occupant.**
9. The United States shall take all necessary response actions with regards to any hazardous substances remaining on the property at the time of deed conveyance. A projected work completion schedule associated with such actions is included as *Exhibit B*, and will be reviewed by the Navy, U.S. EPA and the State of Tennessee on an annual basis and updated as necessary as part of the annual update of the Corrective Action Management Plan (*CAMP*) for this facility.
10. The *Navy* shall submit on an annual basis through established channels, appropriate budget requests to the Director of the Office of Management and Budget that adequately address those agreed upon schedules for investigation and completion of all necessary response action reflected in annual updates to the *CAMP*, subject to future congressional authorizations and appropriations. The currently projected budget requirements for the completion of all required response actions are as follows:

<u>Fiscal Year</u>	<u>Projected Cost</u>	<u>Funded Activity</u>
1999	\$ 1,297,000	Remedial Design Implementation
2000	\$ 591,000	Remedial Design Implementation
2001	\$ 188,000	Long-Term Monitoring
2002	\$ 155,000	Long-Term Monitoring
2003-2015	\$ 105,000/yr	Long-Term Monitoring
Total	\$ 3,496,000	

11. When all response action necessary to protect human health and the environment with respect to any substance remaining on the property on the date of conveyance has been taken, the United States shall execute and deliver to the transferee an appropriate document containing a warranty that all such response action has been taken.

VIII. Natural Resources Restoration and Damage Assessment

a. Reservation of Rights Acknowledgement:

It is understood that State concurrence with this request for *covenant deferral* shall not serve to trigger the Statute of Limitations provided for under CERCLA Section 113(g)(1), nor otherwise serve as a legal bar to the future assertion of release DoD from any liability or waive any claim by that the State of Tennessee may have pursuant to any provision of State or federal law, including any claim for damages occasioned by any injuries to, destruction of, or loss of any natural resource as may have resulted from the Navy's past use and operation of NAS

Memphis to the extent such resources shall fall under the State's trusteeship as a Natural Resource Trustee under CERCLA and the National Contingency Plan (NCP).

b. Navy Responsibilities

Notification

~~Consistent with the requirements of Section 104(b)(2) of CERCLA and Section 2(e)(2) of Executive order 12580, within sixty (60) days of approval of this deferral request the Navy shall formally notify TDEC as the designated Natural Resource Trustee representative for the State of Tennessee, of any and all potential damages to natural resources resulting from the past release or disposal of CERCLA hazardous substances on or from NSA Mid-South.~~

DoD acknowledges that it is a trustee for natural resources present at NSA Mid-South. In this capacity, DoD shall notify the appropriate Federal and State natural resource trustees as required by Section 104(b)(2) of CERCLA and Section 2(e)(2) of Executive Order 12580. DoD is also responsible for assessing damages (injury, destruction, loss of resources) resulting from releases of hazardous substances on NSA Mid-South, and for implementing measures designed to mitigate, and/or compensate for, such damages. These authorities are vested in DoD (as specified in Executive Order 12580) pursuant to Section 107(f) of CERCLA and Section 311(f) of the Federal Water Pollution Control Act.

b. Support of Restoration Advisory Board

Consistent with DoD policy, the Navy has previously established a Restoration Advisory Board (RAB) for NSA Mid-South. The purpose of RAB establishment was to provide a forum for cooperation between the Navy, TDEC, the U.S. EPA, and local community representatives, on proposed site / resource restoration related activities onboard NSA Mid-South. Subject to obtaining appropriated funds for such purposes, the Navy agrees to continue to support RAB activities until such time as the purposes for use of that body have been satisfied. The Commissioner of TDEC shall be provided advance timely notice of RAB activities including meeting, proposed decisions and other significant functions.

c. Trustee Cooperation

To the extent practicable, the Navy shall work with the appropriate TDEC representatives on an ongoing basis to assist in characterizing the scope, nature, and extent of the natural resource injuries which may have occurred at NSA Mid-South. Such cooperation shall be offered and rendered in the context of the Navy fulfilling its site investigation and cleanup responsibilities under CERCLA and the facility's HSWA permit. One of the objectives of such cooperation will be to minimize those natural resource damage assessment costs which might otherwise have to be incurred by the State in order to pursue a claim for natural resource damages under CERCLA Section 107 (42 U.S.C. Section 9607).

IX. Transferee Response Action Assurances and Agreements:

~~*It is not anticipated that the Grantee will assume any obligation to conduct response actions on the property associated with hazardous substances remaining on the property at the time of conveyance. Should this change, the Navy shall provide the U.S. EPA and TDEC with copies of all documentation evidencing that the Transferee is legally obligated to conduct the required response actions consistent with CERCLA and the Navy's HSWA corrective action obligations. [Put back in the Navy's original CDR language as provided in the Navy's first draft CDR]*~~ The Grantee will not be assuming any obligations to conduct response actions on the property associated with hazardous substances remaining on the property at the time of conveyance. The Navy shall retain responsibility for the completion of all necessary response actions consistent with CERCLA and its RCRA/HSWA permit obligations.

X. Effect of Covenant Deferral Request:

Nothing in this Covenant Deferral Request shall be construed to alter the Navy's obligations under applicable federal or state law ~~to complete all response actions necessary to permit the industrial reuse of this property in accordance with the City of Millington's Reuse Plan.~~ *It is not expected that approval of this deferral request and subsequent transfer of the property would serve to substantially delay necessary response action(s) on the property.*

XI. Responsiveness Summary:

As reflected in Exhibit D, on _____, public comment was solicited on the Navy's draft covenant deferral request via newspaper publication of an availability notice. The Navy (did / did not) receive any comments from the general public. Comments were received from both U.S. EPA and TDEC. All comments received were considered in the preparation of this final request, and are included in Exhibit E. The Navy's responses to any unresolved comments are included in Exhibit F.

Suitability Declaration

As the cognizant U.S. Department of Defense (DoD) official authorized to make such determination, I, the undersigned, have determined that under the proposed land-use conditions and *restrictions to be implemented* that the above described property is suitable for the intended reuse *and that to allow such uses would be consistent with future protection of human health and the environment.*

Date

WILLIAM J. CASSIDY, JR.
Deputy Assistant Secretary of the Navy
(Conversion And Development)

Exhibit F

Responses to Unresolved Written Comments



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-3104

4WD-FFB

April 22, 1999

David L. Porter
BRAC Environmental Coordinator
NSA Memphis
P. O. Box 190010
2155 Eagle Drive
North Charleston, South Carolina 29419-0910

SUBJ: Comment on Covenant Deferral Request or NSA Mid-South

Dear Mr. Porter:

This letter is in response to the Navy's Draft Covenant Deferral Request (CDR), dated March 19, 1999, and the revisions to this CDR which are documented in Steve Beverly's (Navy - SOUTHDIR) e:mail message to Martha Brock (EPA Region 4 -EAD) dated April 14, 1999, for transfer of property at the Naval Support Activity (NSA) Mid-South to the City of Millington.¹ As per the CDR provided, the Department of the Navy intends to transfer Airfield Property and Facilities, consisting of approximately 1,867 acres of land and roughly seventy (70) buildings or other structures at NSA Mid-South, to the City of Millington.

EPA generally will not consider a deferral request unless the CDR provides the information of a sufficient quality and quantity to EPA which will support its request for a deferral and provide a basis for EPA to make its determination.² The following are comments which address this issue of sufficiency of quality and quantity of information.

¹Review of this request was conducted under CERCLA § 120(h) and EPA Guidance on the Transfer of Federal Property by Deed Before All Necessary Response Action Has Been Taken Pursuant to CERCLA Section 120 (h)(3) - Early Transfer Authority Guidance, June 16, 1998 ("Early Transfer Authority Guidance" or "Guidance").

²Early Transfer Authority Guidance, §IV.

COMMENTS

1. Please label SWMU 5 and AOC A on the map in Appendix A.
2. EPA requests more information about the nature of the Public Benefit Conveyance. Specifically, is the Federal Aviation Administration, as Cooperating Agency, the Sponsoring Federal Agency (SFA) to whom the City of Millington has applied to become a Public Benefit Recipient? Agreements between the Navy/DoD and the SFA or the SFA and the City of Millington, including memoranda of agreement and transfer documents, may include information relevant to the protection of human health and the environment.
3. EPA requests the specific legal authority within this jurisdiction (for example, statutes, case law citations, legal opinions) on which the Navy relies to support the enforceability of the use restrictions over the life of the remedy.
4. EPA requests executed deeds to ensure the inclusion of any unresolved regulatory comments and in order to properly augment our records.

If the military chooses not to respond to these comments, EPA should consider characterizing our comments as "unresolved regulatory comments" pursuant to DoD policy on FOSTs, and have said comments placed as an attachment to the FOST. Lastly, DoD should be placed on notice that their failure to comply with the above-delineated CERCLA requirements, may subject the Facility to citizen suits under CERCLA § 310 for failure to perform specified, non-discretionary duties.

Sincerely,



Brian Donaldson
Environmental Engineer

cc: Martha Brock, EAD
Jim Morrison, TDEC