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LETTER REGARDING U S EPA REGION IV COMMENTS ON DRAFT INTERIM RECORD OF  
DECISION AT OPERABLE UNIT 3 WITH TRANSMITTAL LETTER NTC ORLANDO FL  
7/5/2000  
U S EPA REGION IV

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Mr. Wayne J. Hansel  
Southern Division  
Naval Facilities Engineering Command  
P.O. Box 190010  
Charleston, SC 29419-9010

SUBJECT: Comments on the Draft Interim Record of Decision for Operable Unit 3, Naval Training Center, Orlando, Florida.

Dear Mr. Hansel:

The United States Environmental Protection Agency (EPA) has completed the review of the Draft Interim Record of Decision for Operable Unit 3, Naval Training Center, Orlando, dated April 2000.

Through these comments, EPA raises issues concerning effective implementation and monitoring of institutional controls. The Navy should consider that the cost of addressing these issues may raise the cost of the remedial decision. It appears, however, that the O & M cost, if raised, will be raised across the board for monitoring of institutional controls in all alternatives in like fashion, since no alternative expects to achieve actions levels in less than 30+ years. The selected remedy may, therefore, not be affected by this cost adjustment.

Importantly, however, the IROD appears to indicate that the long-term effectiveness of the selected remedy is in question.<sup>1</sup> If that is merely a misreading of the language, please correct EPA's understanding. If, however, the long-term effectiveness is not substantiated, then the remedy selection should be reopened.

### Comments

1. Declaration of the ROD, Section 1.3 Description of the Selected Remedy. This section states that EPA has indicated that until the selected remedy is operating properly and successfully, the property will be deemed non-transferrable. This statement should be revised in order to accurately reflect EPA's position. CERCLA's property transfer provisions in section 120(h) require the United States to place in the deed the covenant that all necessary remedial action has been taken. All necessary remedial action will be deemed to have been taken if the construction and installation of an approved remedial design has been completed, and the remedy has been demonstrated to the Administrator

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<sup>1</sup>See Comment 9.

to be operating properly and successfully. If the remedy cannot be demonstrated to be operating properly and successfully, the property can still be transferred under the covenant deferral request provisions of CERCLA § 120(h)(3)(C). The correction to the text should be, “Without resort to the Covenant Deferral Request provisions of CERCLA § 12(h)(3)(C), the property cannot be transferred until the selected remedy is operating properly and successfully (OPS).” Please make this same correction to the text in Section 2.4 Scope and Role of Interim Remedial Action Selected for OU3.

2. Declaration of the ROD, Section 1.3 Description of the Selected Remedy. Please revise the third sentence in the first bullet under “Institutional Controls”: “The Navy or its contractor ~~can~~ will verify whether the warning signs are still in place or whether ...” In addition, if the Navy employs a contractor to conduct such inspection, the Navy should periodically (for instance, at least every five years) verify the accuracy of the information in the inspection reports. Please address the text accordingly. Please make this same correction to the text in Sections 2.4 Scope and Role of Interim Remedial Action Selected for OU3 and 2.9.1 Description of the Limited Action Remedy.
3. Declaration of the ROD, Section 1.3 Description of the Selected Remedy. The remedy envisions prohibition against residential use of the property until residential cleanup standards have been met. While EPA agrees with the statement that the Navy will ensure that no residential development occurs prior to transfer, it is the Navy’s responsibility to ensure that all aspects of its selected remedy are effective, regardless of the transfer status. Please revise the sentence in the third bullet under “Institutional Controls,” by deleting “Prior to transfer.” Please describe the process by which the Navy will ensure that such restrictions, and all ICs, are followed. The only reference to monitoring of ICs is that site review every five years to verify visually that ICs are maintained. Please add to your method of monitoring ICs the inspection of deed records to ensure that the restrictions are memorialized with any transfer of restricted real property. Please describe the frequency with which the Navy will conduct such IC compliance-verification. Please make this same correction to the text in Sections 2.4 Scope and Role of Interim Remedial Action Selected for OU3 and 2.9.1 Description of the Limited Action Remedy.
4. Declaration of the ROD, Section 1.3 Description of the Selected Remedy. “Institutional Controls”, sixth bullet. Please include the restriction against residential development in the annual reminder notices. Please make this same correction to the text in Sections 2.4 Scope and Role of Interim Remedial Action Selected for OU3 and 2.9.1 Description of the Limited Action Remedy.
5. Declaration of the ROD, Section 1.4 Declaration Statement. Please provide the rationale for the statement that the selected remedy does not satisfy the statutory preference for treatment as a principal element of the remedy.
6. Section 2.4, Page 2-8, 2<sup>nd</sup> Paragraph. Delete the word greatest in the following sentence “This has allowed cleanup efforts to focus on those parcels that pose the greatest potential risk to human health and the environment....”.

7. Section 2.5.4 Groundwater, Page 2-14, 1<sup>st</sup> Paragraph. Please change “The Navy is evaluating..” to “The OPT is evaluating...”.
8. Section 2.9.1 Description of the Limited Action Remedy. The text states that the remedy includes institutional controls, groundwater monitoring and five-year (maximum) reviews, and bench-scale pilot testing of innovative technologies. Note that CERCLA § 121(c) indicates that whenever hazardous substances, pollutants, or contaminants are left in place, the remedial action will be reviewed no less often than every five years. The Interim ROD appears to have translated CERCLA’s “no less often” language into “no more often.” While it does not violate the letter of the statute, it certainly appears to run at odds with its spirit. Please revise the Interim ROD so as to not deflate the five-year-review language of the statute.
9. Section 2.9.1 Description of the Limited Action Remedy. Compliance with ARARs. This section states that the remedy *may* comply with ARARs in the long-term. Compliance with ARARs is a CERCLA threshold criteria, and must be met in a final remedial decision. However, since this remedy is being selected on an interim basis, and includes bench scale testing to evaluate the effectiveness of the natural attenuation portion of the remedy, this section should make clear that this factor, uncertainty about compliance with ARARs, is one of the bases for selecting this as an *Interim* Remedy.
10. Section 2.9.1 Description of the Limited Action Remedy. Reduction of Toxicity, Mobility, and Volume Through Treatment. Where the preference for remedies employing treatment which permanently and significantly reduces the toxicity, mobility, or volume of hazardous substances, pollutants, or contaminants as a principal element of the selected remedy is not satisfied, the ROD must explain why a remedial action involving such reductions in toxicity, mobility or volume was not selected. Please provide this explanation in this section.
11. Section 2.9.1 Description of the Limited Action Remedy. Long-Term Effectiveness and Permanence. Evaluation of the long-term effectiveness of the remedy states that administrative actions would provide exposure control, but would not provide a permanent remedy for risks posed by the site during the period that contaminant concentrations decline through natural processes. It appears to be the objective of the institutional controls, including legal and administrative (governmental) controls, to provide effectiveness of the remedy both for the short- and the long-term. If there is a reason to believe that the long-term effectiveness of the institutional control remedy is limited, please state that reason in the IROD. In addition, if the remedy is not effective in the long-term, its selection should be reevaluated.
12. Section 2.9.1 Description of the Limited Action Remedy. Implementability. Since there are aspects of the institutional control monitoring that have not been addressed, it is suggested that the implementability should be considered in light of EPA’s comments. EPA does not suggest that the institutional controls are not implementable; merely, that

the IROD has not captured all the elements essential to an effective institutional control remedy.

13. Section 2.9.1 Description of the Limited Action Remedy. Cost. The cost should address the implementation of an effective institutional control remedy, per EPA comments on ICs. For instance, since there is no description of periodic inspections of the deeds of record through time (along with the five-year reviews) to verify the carrying forward of the restrictive covenants, and hence, no cost allocated to this function, the cost does not reflect an effective IC remedy.
14. Statutory Determinations. This section states that the selected remedy will comply with ARARs. Please reconcile this with EPA Comment 7.
15. Statutory Determinations. Please see EPA Comment 8. This section provides the rationale for not selecting a remedy, which results in reductions in toxicity, mobility or volume. The rationale given, “because evaluation of balancing criteria determined treatment of the groundwater was not practicable” is not meaningfully descriptive. Please provide more particular information about the nature of the balancing criteria that justified this decision, for example, technical infeasibility, inadequate short-term protection of human health and the environment, or extraordinarily high costs.

If you have any questions regarding these comments, please call me at (404) 562-8536.

Sincerely,

Nancy Rodriguez  
Remedial Project Manager

cc: Dave Grabka, FDEP  
Rick Allen, HLA  
Barbara Nwokike, SouthDiv  
Steve McCoy, Tt NUS