

IAG COVER SHEET

FILE NAME: Anniston.pdf

Title: Anniston Army Depot, Alabama

Subject: Region 4, IV

Author: Army, DoD, Alabama, AL

Keywords: 6/13/90, 1990, FY90

FEDERAL FACILITY AGREEMENT

BETWEEN

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY - REGION IV,

THE ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT
AND

THE UNITED STATES DEPARTMENT OF THE ARMY,

FOR THE

ANNISTON ARMY DEPOT, ALABAMA

TABLE OF CONTENTS

	<u>PAGE</u>
I. JURISDICTION.....	1
II. PARTIES.....	3
III. PURPOSES.....	4
IV. DEFINITIONS.....	7
V. DETERMINATIONS.....	12
VI. SITE DESCRIPTION.....	13
VII. FINDINGS.....	17
VIII. STATUTORY COMPLIANCE.....	21
IX. PERMITS.....	23
X. SCOPE OF THE AGREEMENT.....	26
XI. WORK TO BE PERFORMED.....	28
A. Remedial Investigation.....	28
B. Feasibility Study.....	29
C. Operable Unit Remedial Actions.....	29
D. Remedial Action.....	29
E. Additional Work.....	30
XII. CONSULTATION WITH U.S. EPA AND ADEM (Review and Comment Process for Draft and Final Documents).....	32
A. Applicability.....	32
B. General Process for RI/FS and RD/RA Documents...	33
C. Primary Documents.....	34
D. Secondary Documents.....	35

TABLE OF CONTENTS (Cont.)

	<u>PAGE</u>
E. Meetings of the Project Managers on Development of Reports.....	36
F. Identification and Determination of Potential ARARS.....	36
G. Review and Comment on Draft Reports.....	37
H. Availability of Dispute Resolution for Draft Final Primary Documents.....	40
I. Finalization of Reports.....	40
J. Subsequent Modifications of Final Reports.....	41
XIII. CREATION OF DANGER.....	42
XIV. REPORTING.....	43
XV. NOTIFICATION.....	44
XVI. PROJECT MANAGERS.....	46
XVII. SAMPLING AND DATA/DOCUMENT AVAILABILITY.....	48
XVIII. ACCESS.....	50
XIX. RETENTION OF RECORDS.....	53
XX. FIVE YEAR REVIEW.....	53
XXI. OTHER CLAIMS.....	54
XXII. CONFIDENTIAL INFORMATION.....	55
XXIII. RECOVERY OF EXPENSES.....	55
XXIV. STIPULATED PENALTIES.....	61
XXV. DEADLINES.....	64

TABLE OF CONTENTS (Cont.)

	<u>PAGE</u>
XXVI. EXTENSIONS.....	66
XXVII. FORCE MAJEURE.....	69
XXVIII. RESOLUTION OF DISPUTES.....	70
XXIX. REMOVAL ACTIONS.....	75
XXX. TRANSFER OF PROPERTY.....	77
XXXI. PUBLIC PARTICIPATION.....	78
XXXII. PUBLIC COMMENT.....	79
XXXIII. AMENDMENT OR MODIFICATION OF AGREEMENT.....	80
XXXIV. RESERVATION OF RIGHTS.....	81
XXXV. ENFORCEABILITY.....	82
XXXVI. TERMINATION.....	84
XXXVII. FUNDING.....	84
XXXVIII. EFFECTIVE DATE.....	86

APPENDIX

1. Map of Anniston Army Depot
2. List of SWMU/Operable Units
3. List of Primary/Secondary Documents
4. List of RCRA/CERCLA Terms

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IV,

ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT,

AND THE

UNITED STATES DEPARTMENT OF THE ARMY

IN THE MATTER OF:

The U.S. Department of ARMY
Anniston Army Depot, Alabama

)
) FEDERAL FACILITY AGREEMENT
) UNDER CERCLA SECTION 120
) and RCRA Sections 3004(u),
) 3004(v), 3008(h) and 6001

)
) Administrative
) Docket Number:
)

Based on the information available to the United States Environmental Protection Agency, Region IV, the Alabama Department of Environmental Management and the United States Department of the Army on the effective date of this FEDERAL FACILITY AGREEMENT concerning Anniston Army Depot, Alabama and without trial or adjudication of any issues of fact or law, the Parties agree as follows:

I. JURISDICTION

Each Party is entering into this Agreement pursuant to the following authorities:

A. The United States Environmental Protection Agency (U.S. EPA), Region IV, enters into those portions of this Agreement that relate to the Remedial Investigation and Feasibility Study (RI/FS) pursuant to Section 120(e)(1) of the

Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 U.S.C. § 9620(e)(1), as amended by the Superfund Amendments and Reauthorization Act of 1986 (SARA), Public Law 99-499 (hereinafter jointly referred to as CERCLA/SARA or CERCLA) and Sections 3008(h) and 6001 of the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. § 6924(u) and (v), 6928(h), and 6961, as amended by the Hazardous and Solid Waste Amendments of 1984 (HSWA) (hereinafter jointly referred to as RCRA/HSWA or RCRA), upon issuance of the RCRA hazardous waste permit, 3004(u) and (v) of RCRA and Executive Order 12580;

B. U.S. EPA, Region IV, enters into those portions of this Agreement that relate to all remedial actions pursuant to Section 120(e)(2) of CERCLA/SARA, 42 U.S.C. § 9620(e)(2), Sections 3008(h), 6001, and upon issuance of the RCRA hazardous waste permit(s), 3004(u) and (v) of RCRA and Executive Order 12580;

C. The United States Army (U.S. Army or Army), Anniston Army Depot, enters into those portions of this Agreement that relate to the RI/FS pursuant to Section 120(e)(1) of CERCLA, 42 U.S.C. § 9620(e)(1), Sections 3008(h), 6001 and, upon issuance of the RCRA hazardous waste permit, 3004(u) and (v) of RCRA, Executive Order 12580, the National Environmental Policy Act, 42 U.S.C. § 4321, and the Defense Environmental Restoration Program (DERP), 10 U.S.C. § 2701 et seq.

D. The Army enters into those portions of this Agreement that relate to operable unit remedial actions and final remedial actions pursuant to Section 120(e)(2) of CERCLA/SARA, 42 U.S.C. § 9620(e)(2), Sections 3008(h) and 6001, and, upon issuance of the RCRA hazardous waste permit(s), 3004(u) and (v) of RCRA, Executive Order 12580 and the DERP;

E. The Alabama Department of Environmental Management (ADEM) enters into this Agreement pursuant to Sections 120(f) and 121(f) of CERCLA/SARA, 42 U.S.C. § 9620(f) and 9621(f), Sections 3006 and 6001 of RCRA, 42 U.S.C. § 6961 and 6926; the Alabama Water Pollution Control Act (Section 22-22-1 et seq., Code of Alabama, 1975); the Alabama Environmental Management Act, (Section 22-22A-1 et seq. Code of Alabama 1975), the Hazardous Waste Management and Minimization Act, Section 22-30-1 et seq. (Code of Alabama, 1975) and the Hazardous Substance Clean-up Fund, Section 22-30A-1 et seq. (Code of Alabama, 1988) and such rules and regulations promulgated pursuant thereto.

II. PARTIES

The Parties to this Agreement are the U.S. EPA, the Army and ADEM. The terms of this Agreement shall apply to and be binding upon the U.S. EPA, ADEM and the Army, their agents, employees and primary response action contractors for the Site and all subsequent owners, operators and lessees of Anniston Army Depot. The Army will notify U.S. EPA and ADEM of the identity,

qualifications and assigned tasks of each of its primary contractors performing work under this Agreement upon their selection. This Part shall not be construed as an agreement to indemnify any person. The Army shall notify its agents, employees and primary response action contractors for the Site, and all subsequent owners, operators and lessees of Anniston Army Depot of the existence of this Agreement. Each undersigned representative of a Party certifies that he or she is fully authorized to enter into the terms and conditions of this Agreement and to legally bind such Party to this Agreement.

III. PURPOSE

A. The general purposes of this Agreement are to:

1. Insure that the environmental impacts associated with past and present activities at the Site are thoroughly investigated and appropriate remedial/corrective actions are developed and implemented as necessary to protect the public health, welfare and the environment;

2. Establish a procedural framework and schedule for developing, implementing and monitoring appropriate response actions at the Site in accordance with CERCLA/SARA, the National Contingency Plan (NCP), Superfund guidance and policy, RCRA, RCRA guidance and policy, and applicable state law; and

3. Facilitate cooperation, exchange of information and participation of the Parties in such actions.

B. Specifically, the purposes of this Agreement are to:

1. Establish requirements for the performance of an RI to determine fully the nature and extent of the threat to the public health or welfare or the environment caused by the release(s) and/or threats of release of hazardous substances, pollutants, contaminants, wastes or constituents at the Site and to establish requirements for the performance of a FS for the Site to identify, evaluate, and select alternatives for the appropriate RA(s) to prevent, mitigate or abate the release(s) or threatened release(s) of hazardous substances, pollutants, contaminants, wastes or constituents at the Site in accordance with CERCLA/SARA, RCRA/HSWA and applicable state law.

2. Identify the nature, objective and schedule of response actions to be taken at the Site. Response actions at the Site shall attain that degree of remediation of hazardous substances, pollutant, contaminants, wastes or constituents mandated by CERCLA/SARA, RCRA/HSWA and applicable state law.

3. Identify operable unit remedial actions, including non-emergency removal actions, which are appropriate at the Site prior to the implementation of final RA(s) for the Site. Operable unit remedial actions shall be identified and proposed to the Parties as early as possible prior to formal proposal of operable unit remedial actions to U.S. EPA and ADEM pursuant to CERCLA/SARA, RCRA/HSWA, this Agreement, and applicable state

law. This process is designed to promote cooperation among the Parties in identifying operable unit remedial actions prior to final selection of remedial actions.

4. Implement the selected operable unit remedial actions and final remedial action(s) in accordance with CERCLA and applicable state law and meet the requirements of Section 120(e)(2) of CERCLA for an Interagency Agreement among the Parties.

5. Assure compliance, through this Agreement, with RCRA and other federal and state applicable, or relevant and appropriate requirements, and regulations for matters covered herein.

6. Coordinate response actions at the Site with the mission and support activities at Anniston Army, Alabama.

7. Expedite the remediation process to the extent consistent with protection of human health or welfare, and the environment.

8. Provide for ADEM involvement in the initiation, development, selection and enforcement of remedial actions to be undertaken at the Site, including the review of all applicable data as it becomes available and the development of studies, reports, and action plans; and to identify and integrate state ARAR's into the remedial action process.

9. Provide for operation and maintenance of any

remedial action selected and implemented pursuant to this Agreement.

IV. DEFINITIONS

Except as noted below or otherwise explicitly stated, the terms herein shall have their ordinary meaning unless otherwise defined in CERCLA/SARA, RCRA/HSWA and/or applicable Alabama law.

In addition:

A. "Agreement" means this document and shall include all Attachments to this document referred to herein. All such Attachments shall be appended to and made an integral and enforceable part of this Agreement.

B. "ADEM" means the Alabama Department of Environmental Management.

C. "ANAD" means the Anniston Army Depot, federal facility of the Department of the Army, located in Calhoun County, Alabama, as shown in Attachment 1.

D. "ARARs" means applicable, or relevant and appropriate requirements, standards, criteria or limitations as used in CERCLA Section 121(d), 42 U.S.C. § 9621(d) and further defined in the NCP, and U.S. EPA guidance.

E. "ARMY" or "U.S. ARMY" means the United States Department of the Army.

F. "CERCLA" means the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. § 9601

et seq., as amended by the Superfund Amendments and Reauthorization Act of 1986, Public Law 99-499.

G. "Corrective action" means 1) to identify and evaluate the nature and extent of the release of hazardous waste or constituents from Solid Waste Management Units (SWMUs) at the Site; and 2) to identify, develop and implement the appropriate corrective measures at the Site to protect human health and the environment.

H. "Days" shall mean calendar days, unless business days are specified. Any submittal, written notice of position or written statement of dispute that under the terms of this Agreement would be due on a Saturday, Sunday or a federal/state holiday shall be due on the following business day.

I. "Feasibility Study" (FS) means the study which fully evaluates and develops remedial action alternatives to prevent or mitigate the migration or the release of hazardous substances and pollutants, or contaminants at and from the Site.

J. "Hazardous Constituents" has the same meaning as set forth in Appendix VIII of 40 C.F.R. Part 261.

K. "Hazardous Substances" has the same meaning as set forth by Section 101(14) of CERCLA, 42 U.S.C. § 9601(14).

L. "Hazardous Waste" shall have the meaning set forth in Section 1004 of RCRA and 40 C.F.R. Part 260.

M. "National Contingency Plan" (NCP) means the plan

promulgated pursuant to Section 105 of CERCLA, 42 U.S.C. § 9605, and codified at 40 C.F.R. Part 300, as amended.

N. "Operable Unit Remedial Action" or "Operable Unit" means a discrete portion of a remedial response, including non-emergency removal actions, which manages migration, or eliminates or mitigates a release, threat of a release, or pathway of exposure. The overall remedial response action may be divided into a number of operable units, depending on the complexity of the problems associated with the site. Operable units may be geographical phases of action, or may consist of any set of response actions performed over time or any actions that are concurrent but located in different parts of the site. Operable units must not impede implementation of subsequent response actions and must be consistent with the overall response action for the site.

O. "Parties" means all parties who are signatories to this Agreement.

P. "Project Manager(s)" (U.S. EPA and ADEM) means the individual designated by U.S. EPA and ADEM who oversee and provide technical assistance concerning the activities to be performed pursuant to this Agreement at the Site.

Q. "Project Manager" (Army) means the individual designated by the Army who directs the activities to be performed pursuant to this Agreement at the Site.

R. "Proposed Plan" means the document which describes the preferred remedial action and reviews the screening of alternatives which have been considered.

S. "Quality Assured Data" means data which has undergone quality assurance as set forth in the approved Quality Assurance Project Plan (QAPP).

T. "RCRA" means the Resource Conservation and Recovery Act, 42 U.S.C. § 6901 et seq., as amended by the Hazardous and Solid Waste Amendments of 1984, Pub. L. 98-616.

U. "Record(s) of Decision" or "ROD" means the public document(s) that explain(s) which clean-up alternative(s) will be implemented for the final remedial action for the Site, including any operable units, and includes the bases for the selection of the remedy. The bases include information and technical analysis generated during the remedial investigation and feasibility study and consideration of public comments and community concerns.

V. "Release" shall be used as that term is defined in Section 101(22) of CERCLA, 42 U.S.C. § 9601(22).

W. "Remedial Action" (RA) means the implementation of the Remedial Design consistent with the NCP, as amended, and appropriate Superfund guidance as determined by U.S. EPA, including on-site construction and treatment processes.

X. "Remedial Design" (RD) means all work undertaken to

design the technical aspects of the remedial activities to be implemented at the Site.

Y. "Remedial Investigation" (RI) means the investigation conducted to fully determine the nature and extent of any and all release(s) or threat of releases of hazardous substances, pollutants, contaminants, wastes or constituents and to gather necessary data to support the Feasibility Study.

Z. "Removal" shall have the same meaning as "remove" or "removal" as defined by Section 101(23) of CERCLA, 42 U.S.C. § 9601(23).

AA. "Significant New Site Conditions" shall mean those conditions of geology, hydrogeology and/or contamination that were not foreseeable or known at the time the RI was initiated.

AB. "Site" shall include Anniston Army Depot and any other geographic areas contaminated by the migration, disposal, storage, or otherwise placement of a hazardous substance, pollutant, contaminant, waste or constituent from Anniston Army Depot as discussed in Part VI (Site Description) of this Agreement. The term shall have the same meaning as "facility" as defined by Section 101(9) of CERCLA, 42 U.S.C. § 9601(9).

AC. "Solid Waste Management Units" (SWMUs) means those units subject to applicable RCRA requirements, identified by U.S. EPA and/or ADEM, either presently or in the future, as requiring further investigation.

AD. "U.S. EPA" shall mean the United States Environmental Protection Agency.

V. DETERMINATIONS

On the basis of U.S. EPA and ADEM's files and records, U.S. EPA and ADEM have made the following determinations which shall not be considered admissions by, nor shall they be legally binding on the Army. The Army specifically reserves its rights to challenge these determinations if and when it becomes appropriate.

A. The Anniston Army Depot, Alabama is a "Facility" as defined by Section 101(9) of CERCLA, 42 U.S.C. § 9601(9), and Alabama Code Section 22-22A-1 et seq.;

B. The Army is a "Person" as defined by Section 101(21) of CERCLA, 42 U.S.C. § 9601(21) and Code of Alabama, Section 22-22A-3(7) et seq. The Army is the owner/operator of Anniston Army Depot as defined in Sections 101(20) and 107(a)(2) of CERCLA, 42 U.S.C. § 9601(20) and 9607(a)(2). The Army is the Department of the United States charged with fulfilling the obligations of the owner/operator under CERCLA at Anniston Army Depot, Alabama.

C. Hazardous substances, constituents, wastes, pollutants or contaminants within the meaning of Section 101(14) and (33) of CERCLA, 42 U.S.C. § 9601(14), 9601(33) and 9604(a)(2), Section 1004(5) of RCRA, 42 U.S.C. § 6903(5) and 40 C.F.R. Part 261, and Code of Alabama, Section 22-30A-2(6) et seq., (1988),

Code of Alabama, Section 22-22A-1 et seq., have been managed and/or disposed of at the Site.

D. There have been releases and there continues to be releases and/or threats of release of hazardous substances, constituents, pollutants, wastes or contaminants into the environment within the meaning of 42 U.S.C. § 9601(22), 9604, 9606, and 9607 and Section 1004(5) of RCRA, 42 U.S.C. § 6903(5) and 40 C.F.R. Part 261 and Code of Alabama, Section 22-30A-2(11) et seq., (1988) at and from ANAD.

E. With respect to those releases and/or threat of releases, the U.S. Army at Anniston Army Depot, Alabama is a responsible party within the meaning of 42 U.S.C. § 9607 and a liable party within the meaning Code of Alabama, Section 22-30A-2(9) et seq., (1988) and the Army is the owner of the ANAD facility.

F. The schedule for completing the actions required by this Agreement complies with the requirements of Section 120(e) of CERCLA, 42 U.S.C. § 9620(e). The actions provided for in this Agreement are reasonable and necessary to protect the public health or welfare or the environment.

G. The actions provided for in this Agreement are consistent with the NCP.

H. This Agreement provides for the expeditious completion of all necessary remedial actions.

VI. SITE DESCRIPTION

The Anniston Army Depot (ANAD) is a major heavy equipment rework and materiel storage facility of the U.S. Army located in rural northeastern Alabama. The facility is comprised of 15,246 contiguous acres situated in the southwest corner of Calhoun County, approximately five miles west of the city of Anniston. The land surface is characterized by rolling land with low hills and valleys. Elevations on site range from 630 to 977 feet above mean sea level. Construction of ANAD began in February 1941, and the facility was officially designated as the Anniston Ordnance Depot in October 1941. In August 1962, the facility was retitled as the Anniston Army Depot and redesignated as Class II installation under the U.S. Army Supply and Maintenance Command, which later became the Army Materiel Command (AMC). In September 1976, ANAD along with other Army Depots, was placed under the direction of the U.S. Army Depot System Command (DESCOM), a major subordinate command of AMC. The Depot is known as the "tank rebuild center of the free world" and is one of the largest U.S. Army ammunition storage facilities. Appendix 1 illustrates the ANAD installation.

The 15,246 contiguous acres of ANAD present a roughly square shaped configuration. Ammunition storage bunkers occupy the majority of the Depot with individual areas, primarily along the southern boundary, allocated for warehouse storage, liquid

storage, administration shop/industrial facilities, housing and recreation. The primary access route for motor vehicles is into the south central portion of the Depot via State Highway 202. ANAD is serviced by Southern Railroad which maintains an extensive network of spurs primarily in the southern industrial storage areas.

ANAD can be divided into nine principal areas: (1) the Administrative area including the headquarters building is located in the south central portion of the Depot. (2) The Administrative-recreation area is the location of the original administrative area and is positioned to the west of the present administrative area. It consists of a series of structures which serve as offices for the Facility Engineering Division, Environmental Management Division, and Engineering Plans and Service Division. Also included in the area are a fire station, family housing, the community club, picnic areas and the tennis courts. (3) The Utility area is directly west of the administrative-recreation area and houses various Depot support operations including facility engineer shops, motor vehicle and equipment repair shops, property disposal facilities, and the motor pool. (4) The Civilian housing area consists of approximately 100 family housing units and 15 acres. The area is directly east of the administrative-recreation area and is leased to a private business organization which rents the

housing units to military and civilian tenants. (5) The Storage area is located adjacent to the southern boundary of the Depot, immediately southwest of the civilian housing area. The area contains a series of steel tanks for storage of vehicles and major supply items as well as ten transitory shelters and a processing facility building. (6) The Warehouse area is located in the western portion of the Depot and contains general supply shipping and receiving buildings, three large warehouses, and a series of smaller warehouses. (7) The Recreational area is located south of the present administrative facilities and contains the post exchange, gymnasium, swimming pool, and the Legal and Contracting Offices. (8) The Ammunition Storage and Service Area occupies the entire central and northern portion of the Depot. The area contains approximately 1,300 ammunition storage magazines, an ammunition maintenance workshop complex, ammunition demilitarization area, and the Lance Missile Fueling Facility. (9) The Southeast Industrial Area (SIA) is located in the southeastern portion of the Depot and consists of an extensive series of shop and warehouse buildings utilized for parts and equipment storage, and the repair and modification of combat vehicles, small arms, artillery and other equipment. The industrial and sanitary wastewater treatment plants are located in the eastern and western portion of the area, respectively. The area also contains a vehicle test track in the northwest

quadrant. An excavated diversion channel containing Dry Creek forms the southeastern boundary of the area.

The Site for future remedial and corrective actions shall include the entire Anniston Army Depot.

VII. FINDINGS

A. The following constitutes a summary of the findings upon which this Agreement is based. None of the facts related herein shall be considered an admission by any Party. This Part contains findings, determined solely by the Parties, and shall not be used by any person related or unrelated to this Agreement for purposes other than determining the basis of this Agreement.

B. Previous studies have been conducted at the Site. As a result of these assessments at specific locations or solid waste management units (SWMUs) within the site, the Parties find that: (1) releases of hazardous substances have occurred in the past at specific locations or solid waste management units (SWMUs) at the Site; (2) other hazardous substances, pollutants, contaminants or constituents releases may be occurring and/or may occur in the future at the specific locations or SWMUs within the Site; (3) the documented releases will require CERCLA response actions at the specific locations or SWMUs within the Site and (4) other hazardous substances, pollutants, contaminants, or constituents releases may require CERCLA response/RCRA corrective actions at the specific locations or SWMUs within the Site in the future.

The Southeast Industrial Area (SIA) and the decommissioning and maintenance facilities in the Ammunition Storage and Services Area have been identified by previous studies, including the Preliminary Assessment and Site Inspection required by Section 120 of SARA as areas of primary concern from a waste management perspective. Forty-three (43) solid waste managments units (SWMUs) have been identified for ANAD with twenty-eight (28) of the SWMUs located in the SIA, thirteen (13) in the Ammunition Storage and Service Area, one (1) in the Utility Area and one (1) in the Administrative-Recreation Area.

C. The Southeast Industrial Area (SIA) was placed on the National Priorities List, Federal Facilities Section, as noted in the Federal Register, Vol. 54, No. 47, March 13, 1989.

D. A series of cleanup installation restoration operations pursuant to CERCLA Section 211 have been implemented at ANAD during the recent years to control both on-post and off-post contamination migration. A number of the solid waste management units (SWMUs) classified as having high or medium potential for causing off-post contamination have been cleaned and stabilized. Major installation restoration operations include:

1. Site Z-1 (Chemical Sludge Waste Pits) - The area, listed as SWMU #1 on Appendix 4 consisted of seven trenches, covering approximately two acres. The trenches were used for the disposal of chemical waste, including corrosive waste,

reactive wastes, paint residue, spent solvents, spent cyanide solutions, and wastewater treatment sludge. Site Z-1 was exhumed between November 1982 and May 1983. Approximately 62,000 tons of contaminated soil were transported as waste to an authorized hazardous waste landfill facility. A reclamation project was conducted and the facility was closed under the provisions of RCRA. A groundwater pump and treat project for this area is intended to address localized groundwater contamination at Site Z-1 and the adjacent areas including Site Z-2 (Existing Sanitary Landfill), SWMU #2.

2. Facility 414 (Old Lagoons) - This disposal area, listed as SWMU #12 on Appendix 4 was used from 1960 to 1978 and consisted of three lagoons utilized for the disposal of abrasive dust wastes containing cadmium and possible lead, metal plating and cleaning solutions, fuels, oils, solvents, and residue from the Industrial Waste Treatment Plant (IWTP). The lagoons were emptied in 1978 and the liquid was pumped to a lined surface impoundment known as A-Block Lagoon. The sludge and lagoon remnants were dredged and piled in a berm. In November 1982, the mound was excavated and the material transported to an authorized hazardous waste landfill facility. A pump and treat groundwater project in this area is intended to address contamination at this Site.

3. A-Block Lagoon - This lined surface impoundment, listed as SWMU #22 on Appendix 4 was used from 1978 to 1981 as a temporary storage facility for liquid waste removed from the Old Lagoons (Facility 414) and various other chemical wastes. The A-Block Lagoon was emptied in 1981, the liner and contaminated soils removed, and the area backfilled and regraded. The wastes removed were transported to an approved hazardous waste storage, treatment and disposal facility. The facility was closed under the provisions of RCRA. The groundwater in this area will also be pumped and treated by the groundwater project which serves the Old Lagoons (Facility 414).

4. Building 130 Sump - This was a 8,000 gallon concrete underground sump located outside the southwest corner of Building 130 and listed as SWMU #25 on Appendix 4. The sump was used for temporary storage of paint stripper containing methylene chloride and phenol drained from vats in the building. In conjunction with cleanup activities at Site Z-1 and the Old Lagoon (Facility 414), the sump and adjacent contaminated soil were excavated and transported to an authorized hazardous waste landfill facility. The area was then covered with a concrete pad. The groundwater in this area will be pumped and treated by the project which serves the Northeast Area.

5. Building 114 Groundwater Treatment Project - Building 114 is a new metal plating and finishing shop and was built adjacent to the site of the old facility. It is listed as

SWMU #31 on Appendix 4. A pump and treat groundwater project was initiated at this Site in 1986 to remove volatile organic chemicals including trichloroethylene, dichloroethylene, and methylene chloride.

6. Northeast Area - A groundwater treatment project for this area encompasses treatment of groundwater contamination in the Southeast Industrial Area.

VIII. STATUTORY COMPLIANCE

A. The Parties intend to integrate into this comprehensive Agreement, the Army's CERCLA response obligations and RCRA corrective action obligations which relate to the release(s) of hazardous substances, hazardous wastes, hazardous constituents, pollutants or contaminants. Therefore, the Parties intend that activities covered by this Agreement will achieve compliance with CERCLA, 42 U.S.C. § 9601 et seq.; satisfy the corrective action requirements of Sections 3004(u) and (v) of RCRA, 42 U.S.C. § 6924(u) and (v); and Section 3008(h), 42 U.S.C. § 6928(h); and meet or exceed all applicable or relevant and appropriate federal and state laws and regulations, to the extent required by Section 121 of CERCLA, 42 U.S.C. § 9621 and applicable state law.

B. Based upon the foregoing, the Parties intend that any remedial action selected, implemented and completed under this Agreement will be protective of human health or welfare, and the

environment such that remediation of releases covered by this Agreement shall obviate the need for further corrective action under RCRA, (i.e., no further corrective action shall be required). The Parties agree that with respect to releases of hazardous waste or hazardous constituents covered by this Agreement, RCRA shall be considered an applicable or relevant and appropriate requirement pursuant to Section 121 of CERCLA. Releases or other hazardous waste activities not covered by this Agreement remain subject to all applicable federal and state environmental requirements.

C. The Parties recognize that the requirement to obtain permits for response actions undertaken pursuant to this Agreement shall be as provided for in CERCLA and the applicable regulations including the NCP pursuant to SARA. The Parties further recognize that on-going hazardous waste management activities at the Anniston Army Depot may require the issuance of permits under federal and state laws. This Agreement does not affect the requirements, if any, for the Army to obtain such permits, nor shall it be construed to waive permit requirements for activities at the Site unrelated to response activities conducted pursuant to CERCLA. However, if a permit is issued to the Army for on-going hazardous waste management activities at the Site, U.S. EPA and/or ADEM shall reference and incorporate any appropriate provisions, including appropriate schedules (and

the provision for extension of such schedules), of this Agreement into such permit.

With respect to those portions of this Agreement incorporated by reference into permits, the Parties intend that judicial review of the incorporated portions shall, to the extent review is authorized by law, only occur under the provisions of CERCLA.

D. Nothing in this Agreement shall alter the Army's authority with respect to removal actions conducted pursuant to Section 104 of CERCLA, 42 U.S.C. § 9604. Notification of Site removal actions shall be in accordance with Part XIV (Reporting) and Part XV (Notification) of this Agreement.

IX. PERMITS

A. The Parties recognize that under Sections 121(d) and 121(e)(1) of CERCLA/SARA, 42 U.S.C. § 9621(d) and 9621(e)(1), and the NCP, portions of the response actions called for by this Agreement and conducted entirely on the Site are exempted from the procedural requirement to obtain a federal, state, or local permit but must satisfy all the applicable or relevant and appropriate federal and state standards, requirements, criteria, or limitations which would have been included in any such permit.

B. When the Army proposes a response action other than an emergency removal action to be conducted entirely on the Site,

which in the absence of Section 121(e)(1) of CERCLA/SARA and the NCP would require a federal or state permit, the Army shall include in a submitted Work Plan:

1. Identification of each permit which would otherwise be required;
2. Identification of the standards, requirements, criteria, or limitations which would have had to have been met to obtain each such permit, including input received from ADEM in accordance with Section 121(d)(A)(ii) of CERCLA and;
3. Only to the extent that this information is not covered by the statutory obligations of the Parties to identify ARAR's, explanation of how the response action proposed will meet the standards, requirements, criteria or limitations as identified in Paragraph (2) immediately above.

Upon request of the Army, U.S. EPA and ADEM will provide their position with respect to 2 and 3 above in accordance with Part XXII (G).

C. Subpart A above is not intended to relieve the Army from the requirement(s) of obtaining a federal, state or local permit whenever it proposes a response action involving the shipment or movement off-Site of a hazardous substance.

D. The Army shall be responsible for obtaining all federal, state or local permits which are required for the

performance of any work under this Agreement. The Army shall notify U.S. EPA and ADEM in writing of any permits or other authorizations (e.g., issuance of Emergency ID Number or Disposal Approval Number, etc.,) required for off-Site activities as soon as the Army becomes aware of the requirement. Upon request, the Army shall provide U.S. EPA and ADEM copies of all such permit applications and other documents related to the permit or authorization process.

E. If a permit or other authorization which is necessary for implementation of this Agreement is not issued, or is issued or renewed in a manner which is materially inconsistent with the requirements of this Agreement, the Army shall notify U.S. EPA and ADEM Project Managers of its intention to propose modifications to primary documents thereby affected in accordance with Part XII.J. of this Agreement to obtain conformance with the permit, or lack thereof.

F. Notification by the Army of its intention to propose modifications shall be submitted within fifteen (15) calendar days of receipt by the Army of notification that: (1) a permit will not be issued; (2) a permit has been issued or reissued; or (3) a final determination with respect to any appeal related to the issuance of a permit has been entered. Within thirty (30) days from the date U.S. EPA and ADEM receives the Army's notice of intention to propose modifications, the Army shall submit to

U.S. EPA and ADEM its proposed modifications to this Agreement with an explanation of its reasons in support thereof.

Extension of the period can be requested pursuant to Part XXVI (Extensions) of this Agreement.

G. During any appeal of any permit required to implement this Agreement or during review of any of the Army proposed modifications as provided in Subpart D above, the Army shall continue to implement those portions of this Agreement which can be reasonably implemented pending final resolution of the permit issue(s).

H. Except as otherwise provided in this Agreement, the Army shall comply with all state and federal laws and regulations which the Army is subject to at the Site.

I. To the extent that this information has been provided or would be provided in another document or report required under this Agreement, it is not the intent of the Parties that this paragraph would require resubmission of this information.

X. SCOPE OF THE AGREEMENT

A. This Agreement shall apply to all releases and threats of release of hazardous substances, pollutants or contaminants at or from ANAD, including such releases and threats of release at or from solid waste management units at ANAD, to which CERCLA/SARA, to include Section 211, and RCRA/HWSA applies, or to which CERCLA/SARA alone, applies.

B. Under this Agreement, the U.S. Army agrees it shall:

1. Conduct a Remedial Investigation (RI) as described in Part XI of this Agreement;
2. Conduct a Feasibility Study (FS) of the Site as described in Part XI of this Agreement, incorporating, at a minimum, the results of the ANAD RI;
3. Develop Operable Unit Remedial Actions (Operable Units) as described in Part XI of this Agreement;
4. Develop Remedial Action alternative(s) for the Site and implement those Remedial Actions, including any Operable Units, selected for the Site as described in Part XI of this Agreement;
5. Implement the Remedial Actions selected pursuant to Parts XI., XII. and XXVIII. of this Agreement for the entire Site.
6. Conduct operation and maintenance to maintain the effectiveness of response actions at the Site.
7. Prepare a Health and Safety Plan, a Data Management Plan and a Community Relations Plan.
8. Conduct all activities pursuant to this Agreement in accordance with all applicable guidelines, rules, regulations and criteria as specified in 42 U.S.C. § 9620(a) and in accordance with the authorities delegated in Executive Order 12580, 52 Federal Register 2923 (January 29, 1987).

C. U.S. EPA and ADEM agree to provide the Army with guidance and timely response to requests for guidance to assist the Army in the performance of the requirements under this Agreement.

XI. WORK TO BE PERFORMED

Under this Agreement, the Army agrees to develop and implement plans for the study and remediation of contamination at the Site. All response actions taken pursuant to this Agreement shall be consistent with CERCLA, the NCP, CERCLA guidance and policy and all ARARs. In addition, all submittals and elements of work undertaken pursuant to this Part shall be performed in accordance with the requirements and deadlines and schedules set forth in this Agreement or any attachments hereto.

It is the intent of the Parties to this Agreement that work done and data generated prior to the effective date of this Agreement be retained and utilized as elements of the RI/FS to the maximum extent feasible without violating applicable or relevant and appropriate laws, regulations, or guidelines and without risking significant technical errors.

Specifically, the work to be performed by the Army pursuant to this Agreement is as follows:

A. Remedial Investigation:

The Army shall develop, implement and report upon a RI of the Site in accordance with the requirements of CERCLA, the NCP, and

the timetables and deadlines developed pursuant to this Agreement.

B. Feasibility Study:

The Army shall design, propose, undertake and report upon a FS for the Site, including any operable units, which is in accordance with CERCLA, the NCP, and the timetables and deadlines developed pursuant to this Agreement.

C. Operable Unit Remedial Actions:

The Army shall develop Operable Unit Remedial Actions (Operable Units) and propose deadlines for the completion of Operable Unit workplans as such units are identified. Operable Unit Remedial Action selection and implementation shall comply with all NCP requirements governing such actions and all appropriate requirements and procedures under this Agreement for selecting and implementing final Remedial Actions.

D. Remedial Action:

The U.S. Army shall, after consultation with U.S. EPA and ADEM, publish its Proposed Plan outlining the Remedial Action alternative(s), including Operable Unit Remedial Action alternatives, which it proposes to implement for public review and comment. Upon completion of the public comment period, all Parties will consult with each other about the need for modification of the Proposed Plan and for additional public comment based on public response. After due consideration of

all comments, the Army shall submit its draft Record of Decision (ROD) in accordance with applicable guidance. A review in accordance with Part XII. shall be conducted on the draft Record of Decision. If the Parties agree on the draft Record of Decision, the draft Record of Decision shall become the final Record of Decision. If the Parties are unable to reach agreement on the draft Record of Decision, resolution of the dispute shall be in accordance with Part XXVIII. of this Agreement. Should dispute resolution reach the U.S. EPA Administrator level, the Administrator's final selection of the remedial action(s) shall not be subject to dispute by the Army. Notice of the final Record of Decision shall be published by the Army. The final ROD shall be made available to the public prior to the commencement of the remedial action, in accordance with CERCLA Section 117.

Following finalization of the ROD, the Army shall design, propose and submit a plan for implementation of the selected Remedial Action, including appropriate timetables and schedules, to U.S. EPA and ADEM. The purpose of the plan for Remedial Action is to establish procedures for implementation of the selected response action.

E. Additional Work:

1. In the event that the U.S. EPA or ADEM determine that additional work, including remedial investigatory

work and/or engineering evaluation, is necessary to accomplish the objectives of this Agreement, notification of such additional work or modification to work shall be provided to the Army.

2. If, after consultation with U.S. EPA and ADEM, the Army disputes the necessity of such additional work, the question of whether such work will be conducted shall be resolved pursuant to the dispute resolution procedures of Part XXVIII.

3. Any additional work or modification of work pursuant to this Paragraph shall be governed by the provisions of this Agreement and shall be reflected either by way of a modification of an existing report or document pursuant to Part XII.(J.) or by submittal by the Army of additional primary documents addressing the work.

4. Should additional work be required pursuant to this Paragraph, deadlines and schedules for the submission of primary documents or modifications of primary documents relating to that work, as well as schedules for implementation of any remedial activity relating to that work, shall be established in accordance with the procedures set forth in Part XXV. of this Agreement. However, the starting point for the process in Paragraph A of Part XXV. shall be within 21 days of the determination, pursuant to Subparagraphs 1 and 2 of Paragraph E,

Part XI, that the additional work is required. All deadlines and schedules developed pursuant to this Paragraph shall become attachments to and enforceable parts of this Agreement, subject to stipulated penalties under Paragraph XXIV.

5. If any additional work will adversely affect scheduled work or will require significant revisions to an approved Work Plan, the Army Project Manager will notify the U.S. EPA and ADEM Project Managers as soon as any such conflict is discovered and will provide any written explanation requested by U.S. EPA or ADEM within seven (7) days of the request.

6. The discovery of previously unknown sites, contamination or releases, and Significant New Site Conditions may be addressed as additional work under the terms of this Agreement as specified in this Paragraph. Should any Party make such a discovery, it shall notify the other Parties within seven (7) days of such discovery.

XII. CONSULTATION WITH U.S. EPA AND ADEM

Review and Comment Process for Draft and Final Documents

A. Applicability:

The provisions of this Part establish the procedures that shall be used by the Parties to provide each other with appropriate notice, review, comment and response to comments regarding RI/FS and RD/RA documents, specified herein as either primary or secondary documents. In accordance with Section 120

of CERCLA and 10 U.S.C. § 2705, the Army will normally be responsible for issuing primary and secondary documents to U.S. EPA and ADEM. As of the effective date of this Agreement, all draft and final reports for any deliverable document identified herein shall be prepared, distributed and subject to dispute in accordance with Paragraphs B through J below.

The designation of a document as "draft" or "final" is solely for purposes of consultation with U.S. EPA and ADEM in accordance with this Part. Such designation does not affect the obligation of the Parties to issue documents, which may be referred to herein as "final", to the public for review and comment as appropriate and as required by law. All documents identified below shall be considered "reports" pursuant to Part XV (Notification) of this Agreement.

B. General Process for RI/FS and RD/RA documents:

1. Primary documents include those reports that are major, discrete portions of RI/FS or RD/RA activities. Primary documents are initially issued by the Army in draft subject to review and comment by U.S. EPA and ADEM. Following receipt of comments on a particular draft primary document, the Army will respond to the comments received and issue a draft final primary document subject to dispute resolution. The draft final primary document will become the final primary document thirty (30) days after issuance if dispute resolution is not invoked or as modified by decision of the dispute resolution process.

2. Secondary documents include those reports that are discrete portions of the primary documents and are typically input or feeder documents. Secondary documents are issued by the Army in draft subject to review and comment by U.S. EPA and ADEM. Although the Army will respond to comments received, the draft secondary documents may be finalized in the context of the corresponding primary documents. A secondary document may be disputed at the time the corresponding draft final primary document is issued.

C. Primary Documents:

1. The Army shall complete and transmit draft reports for the following primary documents to U.S. EPA and ADEM for review and comment in accordance with the provisions of this Part:

- a. Site Management Plan
- b. RI/FS Work Plan(s)
- c. Community Relations Plan
- d. Remedial Investigation (RI) Reports,
- e. Risk Assessment(s)
- f. Feasibility Study (FS) Reports
- g. Proposed Remedial Action Plan(s)
- h. Record(s) of Decision
- i. Remedial Design Report(s)
- j. Remedial Action Work Plan(s)

k. Final Remediation Report(s)

l. NPL Closeout Report

2. Only the draft final reports for the primary documents identified above shall be subject to dispute resolution. The Army shall complete and transmit draft primary documents in accordance with the timetable and deadlines established in Part XXV. (Deadlines) of this Agreement.

D. Secondary Documents:

1. The Army shall complete and transmit draft reports for the following secondary documents to U.S. EPA and ADEM for review and comment in accordance with the provisions of this Part may include, but not limited to:

- a. Scope(s) of Work for Operable Unit(s)
- b. Health and Safety Plan
- c. Quality Assurance Project Plan, including Field Sampling Plan and Quality Assurance and Quality Control Plan
- d. Site Characterization Report(s)
- e. Site Base-line Risk Assessment
- f. Treatability Study Report(s)
- g. RI Characterization Work Plans
- h. RI Characterization Reports
- i. Remedial Design Implementation Plan(s)
- j. Remedial Pre-design Report

k. Remedial Action Quarterly Progress Reports

l. Remedial Action Post Construction Report

2. Although U.S. EPA and ADEM may comment on the draft reports for the secondary documents listed above, such documents shall not be subject to dispute resolution except as provided by Paragraph B, above. Target dates shall be established for the completion and transmission of draft secondary reports pursuant to Part XXV. (Deadlines) of this Agreement.

E. Meetings of the Project Managers on Development of Reports:

The Project Managers shall confer quarterly, to review and discuss the progress of work being performed at the Site on the primary and secondary documents. Prior to preparing any draft report specified in Paragraphs C and D above, the Project Managers shall confer to discuss the report results in an effort to reach a common understanding, to the maximum extent practicable, with respect to the results to be presented in the draft report.

F. Identification and Determination of Potential ARARs:

1. For those primary reports or secondary documents that consist of or include ARAR determinations, prior to the

issuance of a draft report, the Project Managers shall meet to identify and propose, to the best of their capability, all potential ARARs pertinent to the report being addressed. ADEM shall identify all potential state ARAR's as early in the remedial process as possible consistent with the requirements of CERCLA Section 121 and the NCP. The Army shall consider any written interpretations of ARAR's provided by ADEM. Draft ARAR determinations shall be prepared by the Army in accordance with Section 121(d)(2) of CERCLA, 42 U.S.C. § 9621 (d)(2), the NCP and pertinent guidance issued by U.S. EPA that is consistent with CERCLA and the NCP.

2. In identifying potential ARARs, the Parties recognize that actual ARARs can be identified only on a site-specific basis and that ARARs depend on the specific hazardous substances, pollutants or contaminants, and hazardous wastes or constituents at a site, the particular actions proposed as a remedy and the characteristics of a site. The Parties recognize that ARAR identification is necessarily an iterative process and that potential ARARs must be re-examined throughout the RI/FS process until a ROD is issued.

G. Review and Comment on Draft Reports:

1. The Army shall complete and transmit each draft final primary report to U.S. EPA and ADEM on or before the corresponding deadline established for the issuance of the

report. The Army shall complete and transmit the draft secondary document in accordance with the target dates established for the issuance of such reports established pursuant to Part XXV. (Deadlines) of this Agreement.

2. Unless the Parties mutually agree to another time period, all draft reports shall be subject to a sixty (60)-day period for review and comment. Review of any document by the U.S. EPA and ADEM may concern all aspects of the report (including completeness) and should include, but is not limited to, technical evaluation of any aspect of the document, and consistency with CERCLA, the NCP and any pertinent guidance or policy issued by the U.S. EPA, and with applicable state law. Comments by the U.S. EPA and ADEM shall be provided with adequate specificity so that the Army may respond to the comment and, if appropriate, make changes to the draft report. Comments shall refer to any pertinent sources of authority or references upon which the comments are based, and, upon request of the Army, the U.S. EPA and ADEM shall provide a copy of the cited authority or reference. In cases involving complex or unusually lengthy report, U.S. EPA or ADEM may extend the sixty (60)-day comment period for an additional twenty (20) days by written notice to the Army prior to the end of the sixty (60)-day period. On or before the close of the comment period, U.S. EPA and ADEM shall transmit by certified mail or hand delivery their written comments to the other Parties.

3. Representatives of the Army shall make themselves readily available to U.S. EPA and ADEM during the comment period for purposes of informally responding to questions and comments on draft reports. Oral comments made during such discussions need not be the subject of a written response by the Army on the close of the comment period.

4. In commenting on a draft report which contains a proposed ARAR determination, U.S. EPA or ADEM shall include a reasoned statement of whether they object to any portion of the proposed ARAR determination. To the extent that U.S. EPA or ADEM does object, it shall explain the bases for its objection in detail and shall identify any ARARs which it believes were not properly addressed in the proposed ARAR determination.

5. Following the close of the comment period for a draft primary report, the Army shall give full consideration to all written comments on the draft primary report submitted during the comment period. Within sixty (60) days of the close of the comment period on a draft primary report, the Army shall transmit to U.S. EPA and ADEM its written response to comments received within the comment period. Within sixty (60) days of the close of the comment period on a draft primary report, the Army shall transmit to U.S. EPA and ADEM a draft final primary report, which shall include the Army response to all written comments, received within the comment period.

6. The Army may extend the sixty (60)-day period for either responding to comments on a draft report or for issuing the draft final primary report for an additional twenty (20) days by providing written notice to U.S. EPA and ADEM. In appropriate circumstances, this time period may be further extended in accordance with Part XXVI. (Extensions) hereof.

H. Availability of Dispute Resolution for Draft Final Primary Documents:

1. Dispute resolution shall be available to the Parties for draft final primary reports as set forth in Part XXVIII. (Resolution of Disputes) of this Agreement.

2. When dispute resolution is invoked on a draft primary report, work may be stopped in accordance with the procedures set forth in Part XXVIII. (Resolution of Disputes).

I. Finalization of Reports:

The draft final primary report shall serve as the final primary report if no Party invokes dispute resolution regarding the document or, if invoked, at completion of the dispute resolution process should the Army position be sustained. If the Army determination is not sustained in the dispute resolution process, the Army shall prepare, within thirty-five (35) days, a revision of the draft final report which conforms to the results of dispute resolution. In appropriate circumstances, the time period for this revision

period may be extended in accordance with Part XXVI.

(Extensions) hereof.

J. Subsequent Modifications of Final Reports:

Following finalization of any primary report pursuant to Paragraph I above, any Party to this Agreement may seek to modify the report, including seeking additional field work, pilot studies, computer modeling or other supporting technical work, only as provided in Paragraph 1 below.

1. A Party may seek to modify a report after finalization if it determines, based on new information (i.e., information that became available, or conditions that became known, after the report was finalized) that the requested modification is necessary. A Party may seek such a modification by submitting a concise written request to the Project Manager of the other Parties. The request shall specify the nature of the requested modification and how the request is based on new information.

2. In the event that a consensus is not reached by the Project Managers on the need for a modification, any Party may invoke a dispute resolution to determine if such modification shall be conducted. Modification of a report shall be required only upon showing that: (a) the requested modification is based on significant new information and/or (b) the requested modification could be of significant assistance in

evaluating impacts on the public health or the environment, in evaluating the selection of remedial alternatives, or in protecting human health and the environment.

3. Nothing in this Subpart shall alter U.S. EPA or ADEM's ability to request the performance of additional work which was not contemplated by this Agreement. The Army's obligation to perform such work must be established by either a modification of a report or document or by amendment to this Agreement.

XIII. CREATION OF DANGER

A. In the event the U.S. EPA or the ADEM Director determines that activities conducted pursuant to this Agreement may present an imminent and substantial endangerment to public health or welfare or to the environment, the U.S. EPA or the ADEM, through their Project Managers, may direct the Army to stop further implementation of this Agreement for such period of time as needed to abate the danger and/or may require the Army to take whatever action is necessary to abate the danger.

B. The Army shall arrange to have personnel, agents or employees at the Site with Emergency Response Training, Hazardous Materials Handling Training, Contracting Officer Representative authority and/or Contracting Officer's authority who could be contacted at any time that can direct any necessary corrective action or response work being carried out pursuant to this Part by the Army or its contractors.

C. U.S. EPA or ADEM shall, within twenty-four (24) hours of directing a work stoppage under this Part, present the reasons therefore in writing to the Army. Within seventy-two (72) hours of written request by the Army for review of any directed work stoppage, the EPA Division Director or ADEM Chief of Special Projects shall meet with the Army to discuss the potential danger and possible measures to abate or mitigate the danger and shall determine in writing whether continued work stoppage is necessary. The decision as to whether the workstoppage should continue shall be subject to dispute under Part XXVIII. (Resolution of Disputes) of this Agreement.

D. The Parties agree that the sole purpose of a work stoppage under this Part is to abate imminent and substantial endangerment to public health or welfare or the environment and not to cause stipulated penalties or any other adverse impact to a Party. Toward that end, any schedule, deadline, or time period affected by such a work stoppage shall be extended for a period equal to any delay in complying with such schedule, deadline, or time period caused by the work stoppage as determined under the provisions of Part XXVI. (Extensions) of this Agreement.

XIV. REPORTING

The Army shall submit to U.S. EPA and ADEM quarterly written Progress reports which describe the actions which the Army has

taken during the previous quarter to implement the requirements of this Agreement. Progress reports shall also describe the activities scheduled to be taken during the upcoming quarter. Progress reports shall be submitted by the tenth (10) day of each quarter following the effective date of this Agreement. The progress reports shall include a statement of the manner and extent to which the requirements and time schedules set out in this Agreement and approved Work Plans are being met. In addition, the progress reports shall identify any anticipated delays in meeting time schedules, the reason(s) for the delay and actions taken to prevent or mitigate the delay.

The Army shall submit written notice of a Significant New Site Condition within seven (7) days of such discovery. Except for an emergency removal action, the Army shall submit written notice of a removal action seven (7) days prior to such removal action. The Army shall submit written notice of an emergency removal action within seven (7) days of such removal action.

XV. NOTIFICATION

A. Unless otherwise specified, any report or submittal required to be provided under this Agreement pursuant to a schedule or deadline identified in or developed under this Agreement shall be either hand delivered or sent by certified mail, return receipt requested, over-night mail, or similar method which provides a record of the dates sent and received,

and addressed to:

ANAD Project Manager
Special Projects
Alabama Department of Environmental Management
1751 Cong. William L. Dickinson Drive
Montgomery, Alabama 36130

and

U.S. Environmental Protection Agency
Region IV
Attn.: ANAD Remedial Project Manager
Site Investigation and Support Branch
345 Courtland Street, N.E.
Atlanta, GA 30365

Documents sent to the Army shall be addressed as follows
unless the Army specifies otherwise by written notice:

Commander - ANAD
Attn.: ANAD FFA Project Manager
Anniston Alabama 32601-5005

All deadlines under this Agreement shall begin running on the
date of receipt by U.S. EPA, ADEM or the Army, of the document
the delivery of which precedes the deadline. Date of
submissions shall be the certified date of transmittal.

Unless otherwise requested, all routine correspondence,
including quarterly progress reports may be sent via regular
mail to the above-named persons.

XVI. PROJECT MANAGERS

A. The U.S. EPA, ADEM and the Army shall each designate a Project Manager and Alternate (hereinafter jointly referred to as Project Manager) for the purpose of overseeing the implementation of this Agreement. Within ten (10) days of the effective date of this Agreement, the Parties shall notify each other of the names and addresses of their Project Managers. Any Party may change its designated Project Manager by notifying the other Parties, in writing, within seven (7) days of the change.

B. Communications between the Parties and all documents, including reports, plans, and other correspondence concerning activities performed pursuant to the terms and conditions of this Agreement, shall be directed through the Project Managers. Each Project Manager shall be responsible for assuring that all communications from the other Project Managers and all documents, including reports, plans and other correspondence, are appropriately disseminated and processed by the Party which that Project Manager represents.

C. Subject only to the limitations set forth in Part XVIII. (Site Access), the U.S. EPA and ADEM Project Managers shall have the authority pursuant to this Agreement to: (1) take samples, request split samples of Army samples and ensure that work is performed properly and pursuant to required protocols and in accordance with the terms of this Agreement and any

finalized work plans; (2) observe all activities performed pursuant to this Agreement, take photographs and make such other reports on the progress of the work as the Project Manager deems appropriate; (3) review records, files and documents relevant to this Agreement; and (4) recommend and request minor field modifications to the work to be performed pursuant to this Agreement, or in techniques, procedures or design utilized in carrying out this Agreement, which are necessary to the completion of the project.

D. The Army Project Manager may also recommend and request minor field modifications to the work to be performed pursuant to this Agreement, or in techniques, procedures or design used in carrying out this Agreement, which are necessary to the completion of the project.

E. Any field modifications proposed under this Part by any Party must be approved orally by all three (3) Project Managers to be effective. If agreement cannot be reached on the proposed additional work or modification to work, dispute resolution as set forth in Part XXVIII. may be used.

F. Within fourteen (14) days following a modification made pursuant to this Part, the Project Manager who requested the modification shall prepare a memorandum detailing the modification and the reasons therefore and shall provide or mail a copy of the memorandum to the other Project Managers. The

Parties recognize that modifications and corresponding changes to remedial investigation and response action contracts may necessitate extensions of timetables and deadlines.

G. The Project Manager for the Army shall be physically present on ANAD or reasonably available to supervise work performed at ANAD during implementation of the work performed pursuant to this Agreement and shall make himself or herself available to the U.S. EPA and ADEM Project Managers for the pendency of this Agreement. The absence of the U.S. EPA or ADEM Project Managers from the Site shall not be cause for work stoppage.

XVII. SAMPLING AND DATA/DOCUMENT AVAILABILITY

A. The Army shall use quality assurance, quality control and chain-of-custody procedures in accordance with the most current U.S. EPA Region IV Environmental Services Division Engineering Support Branch Standard Operating Procedures and Quality Assurance Manual (ESD-SOP and QA) and the Operations and Quality Control Manual, throughout all field investigation, sample collection and laboratory analysis activities. The Army shall submit all protocols used for sampling and analysis to U.S. EPA and ADEM for review and comment as to substantive equivalency with established U.S. EPA protocols.

B. The Army shall obtain comments from U.S. EPA and ADEM in planning for, and prior to, all sampling and analysis and

shall develop operable-unit or element-specific Quality Assurance Project Plans (QAPPs), as necessary, for review and comment by the U.S. EPA and ADEM. The QAPPs should be prepared in accordance with U.S. EPA Document QAMS-005/80 and applicable guidance as developed and provided by U.S. EPA and should include, but not be limited to: operable-unit or element-specific sampling methodology; sample storage and shipping methods; documentation, sampling and chain-of-custody procedures; laboratory quality control/quality assurance procedures; and calibration procedures and frequency.

C. The Army shall ensure that any laboratories used for analysis participate in the U.S. Army Toxic and Hazardous Materials Agency Quality Assurance/Quality Control Program. In addition, the Army shall ensure that appropriate U.S. EPA and ADEM personnel or their authorized representatives will be allowed access to any laboratory and personnel utilized by the Army in implementing this Agreement for the purpose of validating sample analysis, protocols and procedures.

D. The Parties shall make available to each other quality assured results of sampling or tests, or other data generated by any Party, or on their behalf, with respect to the implementation of this Agreement within ninety (90) days of their collection, performance or generation. If quality assurance is not completed within ninety (90) days, raw data or

results shall be made available within the ninety (90) day period and quality assured data or results shall be submitted as soon as they become available.

E. At the request of either the U.S. EPA or ADEM Project Manager, the Army shall allow split or duplicate samples to be taken by the U.S. EPA or ADEM during sample collection conducted during the implementation of this Agreement. The Army's Project Manager shall notify the U.S. EPA and ADEM Project Managers not less than fourteen (14) days in advance of any sample collection. If it is not possible to provide fourteen (14) days prior notification, the Army shall notify the U.S. EPA and/or ADEM Project Managers as soon as possible after becoming aware that samples will be collected.

XVIII. ACCESS

A. Without limitation on any authority conferred on U.S. EPA or ADEM by statute or regulation and subject to any statutory and regulatory requirements as may be necessary to protect national security, the U.S. EPA, ADEM and/or their authorized representatives, shall have authority to enter and move about the Site at all reasonable times for any purposes consistent with this Agreement, including, but not limited to: (1) inspecting records, operating logs, contracts and other documents relevant to implementation of this Agreement; (2) reviewing the progress of the Army, its response action

contractors or lessees in implementing this Agreement; (3) conducting such tests and sampling as the U.S. EPA and ADEM Project Managers deem necessary; (4) verifying the data submitted to the U.S. EPA and ADEM by the Army, and (5) exercising any other right or responsibility assigned the Party pursuant to this Agreement. The Army shall honor all reasonable requests for such access by the U.S. EPA and ADEM, conditioned only upon presentation of proper credentials.

B. Consistent with Federal statutes and regulations, should the Army determine it will be necessary to deny access, the Army shall provide an explanation within forty-eight (48) hours of the reason for the denial and, to the extent possible, provide a recommendation for accommodating the requested access in an alternate manner. The Parties agree that this Agreement is subject to CERCLA Section 120(j), 42 U.S.C. § 9620(j).

C. The ANAD shall provide an escort whenever U.S. EPA or ADEM require access to ANAD for purposes consistent with the provisions of this Agreement. U.S. EPA and ADEM shall provide reasonable notice to the Army Project Manager to request any necessary escorts. U.S. EPA and ADEM shall not use any camera, sound recording, or other electronic recording device at ANAD without the permission of the Army Project Manager. The Army shall not unreasonably withhold such permission.

D. All Parties with access to ANAD pursuant to this Part shall comply with all applicable health and safety plans.

E. To the extent that access is required to areas owned by or leased to parties other than the Army, the Army shall use its best efforts, including the exercise of any authority it may have, to obtain written access agreements which shall provide reasonable access to U.S. EPA and ADEM and/or their authorized representatives within thirty (30) days after the effective date of this Agreement or of the date requirements therefore are identified.

F. The Army shall use its best efforts and authority for Section 104(c) of CERCLA, under E.O. 12580, Section 2 to obtain access agreements containing commitments that no conveyance of title, easement, or other interest in non-Army property shall occur without provisions for the continued right of access and for the operation of any monitoring or pumping wells, treatment facilities, or other response actions located on the property and that the owners of such property shall notify the Army, the U.S. EPA, and the ADEM Director by certified mail, at least thirty (30) days prior to any conveyance, of the property owner's intent to convey any interest in the property and of the provisions made for the continued operation of the monitoring wells, treatment facilities, or other response actions installed pursuant to this Agreement.

G. If the Army is unable to obtain such access agreements, the Army shall promptly notify the U.S. EPA and the ADEM. This notification shall include a description of the actions taken to obtain such access.

H. The Army may request the assistance of U.S. EPA and ADEM where necessary access cannot be obtained.

XIX. RETENTION OF RECORDS

Each Party to this Agreement shall preserve, for a minimum of seven (7) years after termination of this Agreement, all of its records and documents which relate to the implementation of this Agreement, despite any document retention policy to the contrary. After this seven (7) year period, each Party shall notify the other Parties at least forty-five (45) days prior to destruction or disposal of any such documents or records. Upon request by any Party the requested Party shall make available such records or documents.

XX. FIVE YEAR REVIEW

A. Consistent with Section 121 (c) CERCLA/SARA and in accordance with this Agreement, the Army agrees that if the remedial action(s) selected result(s) in hazardous substances, pollutants or contaminants remaining on site, U.S. EPA and ADEM will review the remedial action(s) no less often than each five (5) years after the initiation of the final remedial action(s) to assure that human health or welfare and the environment are

being protected by the remedial action(s) being implemented. If, upon such review, it is the judgement of U.S. EPA and ADEM that additional action or modification of the remedial action is appropriate in accordance with Sections 104 or 106 of CERCLA/SARA, U.S. EPA and ADEM shall require the Army to implement such additional or modified action in accordance with Part XXII.(J) of this Agreement.

B. Any dispute by the Army of the determination by U.S. EPA and ADEM under this Part shall be resolved under Part XXVIII. of this Agreement. If the State disagrees with U.S. EPA on whether additional or modified action is appropriate under this Part, the dispute shall be resolved under Part XXVIII. of this Agreement.

XXI. OTHER CLAIMS

A. Nothing in this Agreement shall constitute or be construed as a release by U.S. EPA, ADEM or the Army of any claim, cause of action or demand in law or equity against any person, firm, partnership or corporation not a signatory to this Agreement for any liability it may have arising out of or relating in any way to the generation, storage, treatment, handling, transportation, release, or disposal of any hazardous constituents, hazardous substances, hazardous wastes, pollutants, or contaminants found at, taken to, or taken from ANAD.

B. The U.S. EPA and ADEM shall not be held as Parties to any contract entered into by the Army to implement the requirements of this Agreement.

C. This Agreement shall not restrict U.S. EPA or ADEM from taking any legal or response action for any matter not specifically part of the work covered by this Agreement or modifications hereto.

XXII. CONFIDENTIAL INFORMATION

The Army may assert a confidentiality claim covering all or part of the information requested by this Agreement pursuant to 40 C.F.R. Part 2. Information determined to be confidential by U.S. EPA pursuant to 40 C.F.R. Part 2 shall be afforded the protection specified therein and such information shall be treated by the ADEM Director as "non-public [confidential] data" pursuant to Code of Alabama, Section 22-22A-1 et seq. If no claim of confidentiality accompanies the information when it is submitted to the U.S. EPA or ADEM and none has thereafter been submitted by the Army prior to public release of the information, the information may be made available to the public without notice to the Army.

XXIII. RECOVERY OF EXPENSES

A. Reservation of Rights for Recovery of Other Expenses:

The Parties agree to amend this section at a later date in accordance with subsequent resolution of the national issue of cost reimbursement.

B. Reimbursement of Alabama's Expenses:

1. Subject to the conditions and limitations set forth in this Part and in Part XXXVII, Funding, the Army agrees to request funding and to reimburse the State of Alabama through the Alabama Department of Environmental Management (ADEM) for all reasonable costs it incurs in providing services, which are not inconsistent with the National Contingency Plan (NCP) and are in direct support of the Army's environmental restoration activities pursuant to this Agreement at the Anniston Army Depot (ANAD).

2. Reimbursable expenses shall include only actual expenditures incurred in providing the following assistance at ANAD:

a. Timely technical review and substantive comment on reports or studies which ANAD prepares in support of its response actions and submits to the State;

b. Identification and explanation of State requirements applicable to military installations in performing response actions, especially state applicable or relevant and appropriate requirements (ARARs);

c. Field visits to ensure that cleanup activities are implemented in accordance with appropriate State requirements, or in accordance with conditions agreed upon between the ADEM and ANAD;

d. Support and assistance to ANAD in the conduct of public education and public participation activities in accordance with federal and state requirements for public involvement; and

e. Participation in the review and comment functions of the ANAD Technical Review Committee.

3. In the event that the State of Alabama or ADEM contracts for services to be provided at ANAD that are of the same type performed within ADEM or another State agency, the reimbursable costs for that service shall be limited to the amount that ADEM or such other State agency would have expended if it had performed the service in-house. Neither interest nor profit shall be payable, nor shall costs for any services performed prior to, January 1, 1990, be reimbursable.

4. The Army shall not be responsible for reimbursing ADEM for any costs incurred in the implementation of this Agreement in excess of one percent (1%) of the Army's total lifetime Defense Environmental Restoration Account (DERA) eligible project costs incurred through construction of the remedial actions at ANAD. This total reimbursement limit is currently estimated to be \$ 320,000.00 over the life of the Agreement. Total reimbursable costs payable during any Federal fiscal year following the effective date of this Agreement shall

not exceed \$ 80,000.00 per annum or twenty-five percent of the total lifetime reimbursable costs, whichever is lesser. One year after this Agreement takes effect, the Army and ADEM may review the appropriateness of continuing the \$ 80,000.00 annual cost reimbursement ceiling component. Any disagreement as to its continuance is not subject to the dispute resolution procedures of Part XXVIII., Disputes Resolution, but will be resolved in accordance with the procedures set forth in this Part.

5. Within thirty (30) days after the end of each quarter of the Federal fiscal year, ADEM shall submit to the Army through ANAD an accounting of all State costs actually incurred during that quarter in providing services under this Part. Such accounting shall be accompanied by cost summaries which set forth employee hours and other expenses by major type of support service. All costs must be for work directly related to implementation of this Agreement, be supported by documentation which meets Federal auditing requirements, and not inconsistent with the requirements described in OMB Circular A-87 (Cost Principles for State and Local Governments) and A-128 (Audits for State and Local Cooperative Agreements with State and Local Governments) and Standard Forms 424 and 270. The Army has the right to audit cost reports used by ADEM/State to develop the cost summaries. Subject to subparagraph 6, below,

the Army will, upon timely receipt of properly presented and documented accountings, pay the allowable portion of such accountings within 90 days of proper presentation.

6. In the event that the Army contends that any costs set forth in the accounting provided pursuant to subparagraph 5, above, are not properly payable, or if the Army and the ADEM have any other dispute concerning cost reimbursement, including any disagreement over a cap over future annual or lifetime cost reimbursement, the matter shall be resolved through a bilateral dispute resolution process as follows:

a. The ANAD Project Manager and the ADEM Project Manager shall be the primary points of contact to coordinate resolution of disputes arising under this Part.

b. If the ANAD Project Manager and the ADEM Project Manager are unable to agree, the matter shall be referred to the installation commander or his designated representative and the chief of the designated program office of ADEM as soon as practicable, but in any event, within seven (7) days.

c. Should the aforementioned parties be unable to agree within fourteen (14) days, the matter shall be elevated to the ADEM Director and the Deputy for Environment, Safety and Occupational Health, Office of the Assistant Secretary of the Army, (Installations and Logistics), (DESOH, ASA(I&L)).

d. It is the intention of the Army and ADEM that all disputes shall be resolved in this manner. The use of alternative dispute resolution is encouraged. In the event the ADEM Director and the DESOH, ASA(I&L) are unable to resolve a dispute, ADEM retains all of its legal and equitable remedies to recover its costs.

7. ADEM agrees to maintain accounting records sufficient to identify and support all claimed expenses for support services provided at ANAD for a period of ten years from the termination date of this Agreement. ADEM agrees to provide the Army or its designated representative reasonable access to all such financial records for the purpose of audit for a period of ten years from the termination date of this Agreement.

8. As of 1 June of each year, ADEM shall submit to the Army a budget estimate for projected costs for activities reimbursable under this Agreement for the following Federal fiscal year in the same level of detail as the billing documents.

9. ADEM agrees to seek reimbursement for its expenses solely through the mechanisms established in this Part, and reimbursement provided under this Part shall be in settlement of any claims for State response costs relative to the Army's environmental restoration activities at ANAD.

10. The Army and ADEM agree that the terms and conditions of this Part shall become null and void when the State enters into a Defense/State Memorandum of Agreement (DSMOA) with the Department of Defense (DOD) which addresses State reimbursement.

XXIV. STIPULATED PENALTIES

A. In the event that the Army fails to submit a primary document to U.S. EPA pursuant to the appropriate timetable or deadline in accordance with the requirements of this Agreement, or fails to comply with a term or condition of this Agreement which relates to an operable unit or final remedial action, including any deadlines, timetables or schedules developed under the Remedial Action Work Plan, or otherwise pursuant to this Agreement, reflecting when actual work on remedial actions will take place, U.S. EPA may assess a stipulated penalty against the Army. A stipulated penalty may be assessed in an amount not to exceed \$5,000 for the first week (or part thereof), and \$10,000 for each additional week (or part thereof) for which a failure set forth in this Part occurs.

B. Upon determining that the Army has failed in a manner set forth in Paragraph A, U.S. EPA shall so notify the Army in writing. If the failure in question is not already subject to dispute resolution at the time such notice is received, the Army shall have fifteen (15) days after receipt of the notice to

invoke dispute resolution on the question of whether the failure did in fact occur. The Army shall not be liable for the stipulated penalty assessed by U.S. EPA if the failure is determined, through the dispute resolution process, not to have occurred. No assessment of a stipulated penalty shall be final until the conclusion of dispute resolution procedures related to the assessment of the stipulated penalty.

C. The annual reports required by Section 120(e)(5) of CERCLA shall include, with respect to each final assessment of a stipulated penalty against the Army under this Agreement, each of the following:

1. The facility responsible for the failure;
2. A statement of the facts and circumstances giving rise to the failure;
3. A statement of any administrative or other corrective action taken at the relevant facility, or a statement of why such measures were determined to be inappropriate;
4. A statement of any additional action taken by or at the facility to prevent recurrence of the same type of failure; and
5. The total dollar amount of the stipulated penalty assessed for the particular failure.

D. Stipulated penalties assessed pursuant to this Part shall be payable to the Hazardous Substances Response Trust Fund only in the manner and to the extent expressly provided for in Acts authorizing funds for and appropriations to the Department of Defense.

E. In no event shall this Part give rise to a stipulated penalty in excess of the amount set forth in Section 109 of CERCLA.

F. This Part shall not affect the Army's ability to obtain an extension of a timetable, deadline or schedule pursuant to Part XXVI. of this Agreement.

G. Nothing in this Agreement shall be construed to render any officer or employee of the Army personally liable for the payment of any stipulated penalty assessed pursuant to this Part.

H. The stipulated penalties assessed pursuant to this Part are payable by the Army only to U.S. EPA. The limitations on these penalties were negotiated between the Federal Parties and were not subject to negotiation by ADEM. These limitations do not reflect any ADEM position as to the appropriateness of these limits, either as between the Federal Parties to this Agreement or, under provisions of Alabama Statute or regulation, as to the Parties to this Agreement or any other person or legal entity subject to such stipulated penalties.

I. U.S. EPA and ADEM agree, to the extent allowed by law, to share equally any stipulated penalties paid by the Army between the Hazardous Substances Superfund and an appropriate State fund.

XXV. DEADLINES

A. The Site Management Plan shall be submitted within thirty (30) days of the effective date of this Agreement. The Site Management Plan shall include:

1. actions necessary to mitigate any immediate threats to human health or the environment,
2. a list of Operable Units subject to the Agreement,
3. a prioritization and rationale for the Operable Units at the Site,
4. activities and schedules for work planned for the current Fiscal Year, including the schedule of submittal of primary documents, as set forth in Part XII., paragraph C.1., and
5. work projections for subsequent Fiscal Years.

B. No later than June 1 of each year thereafter, the Army shall submit an amendment to the Site Management Plan specifically addressing items 4. and 5. above and which shall propose schedule deadlines and work priorities for completion of each of the draft primary documents to be submitted in the following fiscal year.

Within fifteen (15) days of receipt, U.S. EPA and ADEM shall review and provide comments to the Army regarding the proposed

deadlines. Within fifteen (15) days following receipt of the comments, the Army shall, as appropriate, make revisions and reissue the proposal. The Parties shall meet as necessary to discuss and finalize the proposed deadlines. If the Parties agree on the proposed deadlines, the finalized deadlines shall be incorporated into the appropriate Work Plans. If the Parties fail to agree within thirty (30) days on the proposed deadlines, the matter shall immediately be submitted for dispute resolution pursuant to Part XXVIII. of this Agreement (Dispute Resolution).

The final deadlines established pursuant to this Paragraph shall be published by U.S. EPA, in conjunction with ADEM.

C. Within twenty-one (21) days of the issuance of the Record of Decision, the Army shall propose deadlines for the completion of each Remedial Design Report and Remedial Action Work Plan. Each deadline shall be proposed, finalized and published utilizing the same procedures set forth in Paragraphs A. and B. above.

D. Within twenty-one (21) days after the RI and FS Work Plans become final, the Army shall furnish target completion dates for secondary documents listed in the RI and FS Work Plans.

E. The deadlines set forth in this Part, or to be established as set forth in this Part, may be extended pursuant to Part XXVI. (Extensions) of this Agreement. The Parties

recognize that one possible basis for extension of the deadlines for completion of the Remedial Investigation and Feasibility Study Reports is the identification of Significant New Site Conditions during the performance of the Remedial Investigation.

XXVI. EXTENSIONS

A. Either a timetable and deadline or a schedule shall be extended upon receipt of a timely request for extension and when good cause exists for the requested extension. Any request for extension by the Army shall be submitted in writing to U.S. EPA and ADEM and shall specify:

1. The timetable and deadline or the schedule that is sought to be extended;
2. The length of the extension sought;
3. The good cause(s) for the extension; and
4. Any related timetable and deadline or schedule that would be affected if the extension were granted.

B. Good cause exists for an extension when sought in regard to:

1. An event of Force Majeure;
2. A delay caused by another party's failure to meet any requirement of this Agreement;
3. A delay caused by the good faith invocation of dispute resolution or the initiation of judicial action;

4. A delay caused, or which is likely to be caused, by the grant of an extension in regard to another timetable and deadline or schedule; and
5. Any other event or series of events mutually agreed to by the Parties as constituting good cause.

C. Absent agreement of the Parties with respect to the existence of good cause, the Army may seek and obtain a determination through the dispute resolution process that good cause exists.

D. Within ten (10) days of receipt of a written request for an extension of a timetable and deadline or a schedule, U.S. EPA and ADEM shall advise the Army in writing of their respective positions on the request. If U.S. EPA or ADEM does not concur in the requested extension, they shall include in their statement of nonconcurrence an explanation of the basis for their position. Should U.S. EPA or ADEM not concur in the requested extension and should their notice of nonconcurrence not occur within ten (10) days of receipt of the Army's written request for the extension, then the timetable and deadline or schedule which is the subject of the requested extension shall be tolled for the period of time in excess of the ten days that it took the U.S. EPA or ADEM to advise the Army of their position of nonconcurrence.

E. If there is consensus among the Parties that the requested extension is warranted, the Army shall extend the affected timetable and deadline or schedule accordingly. If there is no consensus among the Parties as to whether all or part of the requested extension is warranted, the timetable and deadline or schedule shall not be extended except in accordance with a determination resulting from the dispute resolution process.

F. Within ten (10) days of receipt of a statement of nonconcurrence with the requested extension, the Army may invoke dispute resolution.

G. A timely and good faith request for an extension shall toll any assessment of stipulated penalties or application for judicial enforcement of the affected timetable and deadline or schedule until a decision is reached on whether the requested extension will be approved. If dispute resolution is invoked and the requested extension is denied, stipulated penalties may be assessed and may accrue from the date of the original timetable, deadline or schedule. Following the grant of an extension, an assessment of stipulated penalties or an application for judicial enforcement may be sought only to compel compliance with the timetable and deadline or schedule as most recently extended.

XXVII. FORCE MAJEURE

A Force Majeure shall mean any event arising from causes beyond the control of a Party that causes a delay in or prevents the performance of any obligation under this Agreement, including, but not limited to, acts of God; fire; war; insurrection; civil disturbance; explosion; unanticipated breakage or accident to machinery, equipment or lines of pipe despite reasonably diligent maintenance; adverse weather conditions that could not be reasonably anticipated; unusual delay in transportation; restraint by court order or order of public authority; inability to obtain, at reasonable cost and after exercise of reasonable diligence, any necessary authorizations, approvals, permits or licenses due to action or inaction of any governmental agency or authority other than the Army; delays caused by compliance with applicable statutes or regulations governing contracting, procurement or acquisition procedures, despite the exercise of reasonable diligence; and insufficient availability of appropriated funds, if the Army shall have made timely request for such funds as part of the budgetary process as set forth in Part XXXVII. (Funding) of this Agreement. A Force Majeure shall also include any strike or other labor dispute, whether or not within the control of the Parties affected thereby. Force Majeure shall not include increased costs or expenses of Response Actions, whether or not anticipated at the time such Response Actions were initiated.

XXVIII. RESOLUTION OF DISPUTES

Except as specifically set forth elsewhere in this Agreement, if a dispute arises under this Agreement, the procedures of this Part shall apply.

All Parties to this Agreement shall make reasonable efforts to informally resolve disputes at the Project Manager level or the Project Manager's immediate supervisor level. If resolution cannot be achieved informally, the procedures of this Part shall be implemented to resolve a dispute:

A. Within thirty (30) days after: (1) issuance of a draft final primary document pursuant to Part XII. (Consultation with U.S. EPA and ADEM) of this Agreement, or (2) any action which leads to or generates a dispute; the disputing Party shall submit to the Dispute Resolution Committee (DRC) a written statement of dispute setting forth the nature of the dispute, the work affected by the dispute, the disputing Party's position with respect to the dispute and the information the disputing Party is relying upon to support its position.

B. Prior to any Party's issuance of a written statement of dispute, the disputing Party shall engage the other Parties in informal dispute resolution among the Project Managers and/or their immediate supervisors. During this informal dispute resolution period, the Parties shall meet as many times as are necessary to discuss and attempt resolution of the dispute.

C. The Dispute Resolution Committee (DRC) will serve as a forum for resolution of disputes for which agreement has not been reached through informal dispute resolution. The Parties shall each designate one individual and an alternate to serve on the DRC. The individuals designated to serve on the DRC shall be employed at the policy level (Senior Executive Service [SES] or equivalent) or be delegated the authority to participate on the DRC for the purposes of dispute resolution under this Agreement. The U.S. EPA representative on the DRC is the Waste Management Division Director of U.S. EPA's Region IV. The Army's designated member is the Commander, Anniston Army Depot. ADEM's designated member on the DRC is the Deputy Director of the Alabama Department of Environmental Management. Written notice of any delegation of authority from a Party's designated representative on the DRC shall be provided to all other Parties pursuant to the procedures of Part XV. (Notification).

D. Following elevation of a dispute to the DRC, the DRC shall have twenty-one (21) days to unanimously resolve the dispute and issue a written decision. If the DRC is unable to unanimously resolve the dispute within this twenty-one (21) day period, the written statement of dispute shall be forwarded to the Senior Executive Committee (SEC) for resolution, within seven (7) days after the close of the twenty-one (21) day resolution period.

E. The SEC will serve as the forum for resolution of disputes for which agreement has not been reached by the DRC. The U.S. EPA representative on the SEC is the Regional Administrator of U.S. EPA's Region IV. The Army's representative on the SEC is the Deputy Assistant Secretary of the Army for Environment, Safety and Occupational Health (OASA). ADEM's representative on the SEC is the Director of the Alabama Department of Environmental Management. The SEC members shall, as appropriate, confer, meet and exert their best efforts to resolve the dispute and issue a written decision. If unanimous resolution of the dispute is not reached within twenty-one (21) days, U.S. EPA's Regional Administrator shall issue a written position on the dispute. The Army or ADEM may, within fourteen (14) days of the Regional Administrator's issuance of U.S. EPA's position, issue a written notice elevating the dispute to the Administrator of U.S. EPA for resolution in accordance with all applicable laws and procedures. In the event that either the Army or ADEM elect not to elevate the dispute to the Administrator within the designated fourteen (14) day escalation period, that Party shall be deemed to have agreed with the Regional Administrator's written position with respect to the dispute.

F. Upon escalation of a dispute to the Administrator of U.S. EPA pursuant to Paragraph E, the Administrator will review

and resolve the dispute within twenty-one (21) days. Upon request, and prior to resolving the dispute, the U.S. EPA Administrator shall meet and confer with the Army's Secretariat Representative and the Director of ADEM to discuss the issue(s) under dispute. Upon resolution, the Administrator shall provide the other Parties with a written final decision setting forth resolution of the dispute. The duties of the Administrator set forth in this Part shall not be delegated.

G. ADEM reserves its right to maintain an action under Section 121(f)(3)(B) of CERCLA, 42 U.S.C. § 9621(f)(3)(B), to challenge the selection of a remedial action that does not attain a legally applicable or relevant and appropriate standard, requirement, criteria or limitation.

H. The pendency of any dispute under this Part shall not affect the Army's responsibility for timely performance of the work required by this Agreement, except that the time period for completion of work affected by such dispute shall be extended for a period of time usually not to exceed the actual time taken to resolve any good faith dispute in accordance with the procedures specified herein. All elements of the work required by this Agreement which are not affected by the dispute shall continue and be completed in accordance with the applicable schedule for such work.

I. When dispute resolution is in progress, work affected by the dispute will immediately be discontinued if the Waste Division Director for U.S. EPA's Region IV requests, in writing, that work related to the dispute be stopped because, in U.S. EPA's opinion, such work is inadequate or defective, and such inadequacy or defect is likely to yield an adverse effect on human health or the environment, or is likely to have a substantial adverse effect on the remedy selection or implementation process. ADEM may request the U.S. EPA's Region IV Waste Division Director to order work stopped for the reasons set out above. To the extent possible, the Party seeking a work stoppage shall consult with the other Parties prior to initiating a work stoppage request. After stoppage of work, if a Party believes that the work stoppage is inappropriate or may have potential significant adverse impacts, the Party may meet with the Party requesting the work stoppage to discuss the work stoppage. Following this meeting, and further consideration of the issues, the U.S. EPA Waste Division Director will issue, in writing, a final decision with respect to the work stoppage. The final written decision of the U.S. EPA Division Director may immediately be subjected to formal dispute resolution. Such dispute may be brought directly to either the DRC or the SEC, at the discretion of the Party requesting dispute resolution.

J. Within twenty-one (21) days of resolution of a dispute pursuant to the procedures specified in this Part, the Army shall incorporate the resolution and final determination into the appropriate plan, schedule or procedures and proceed to implement this Agreement according to the amended plan, schedule or procedures.

K. Resolution of a dispute pursuant to this Part of the Agreement constitutes a final resolution of any dispute arising under this Agreement. The Parties, subject to provisions of Part XXXIV (Reservation of Rights), shall abide by all terms and conditions of any final resolution of dispute obtained pursuant to this Part of this Agreement.

XXIX. REMOVAL ACTIONS

A. Nothing in this Agreement shall alter the Army's authority with respect to removal actions conducted pursuant to Section 104 of CERCLA, 42 U.S.C. § 9604.

B. The Army shall provide the U.S. EPA and ADEM with timely notice of any proposed removal action in accordance with Section 211(a)(1)(B) of SARA, 10 U.S.C. § 2705(a).

C. Any removal action conducted on the Site shall be conducted in the manner consistent with CERCLA, the NCP, this Agreement and appropriate Alabama law.

D. Notwithstanding any other provision of this Agreement, the Army retains the right, consistent with E.O. 12580, to

conduct such emergency response actions as may be necessary to alleviate immediate threats to human health or the environment from the release or threat of release of hazardous substances, pollutants or contaminants at or from ANAD. Such actions may be conducted at any time, either before or after the issuance of the ROD. However, consistent with 10 U.S.C. § 2705, after the Army makes any proposal to carry out such response actions and before the Army undertakes any such action, the Army shall afford to U.S. EPA, ADEM and local officials an adequate opportunity for timely review and comment. This opportunity for review and comment need not be provided if the action to be taken is an emergency removal taken because of imminent and substantial endangerment to human health or the environment and consultation would be impractical.

E. The Army shall provide U.S. EPA and ADEM with oral notice immediately after the Army determines that an emergency action is necessary. In addition, within fourteen (14) days of initiating such action, in the event consultation was impractical, the Army shall provide written notice to the other Parties explaining why such action was necessary to abate an imminent and substantial endangerment to human health or the environment as well as why consultation was impractical. This notice shall include any requested factual, technical, and scientific bases for such action and available supporting documents. Upon completion of such an emergency action, the

Army shall notify the other Parties in writing that the emergency action has been implemented. Such notice shall state whether, and to what extent, the emergency action varied from that described in any prior notice.

XXX. TRANSFER OF PROPERTY

A. In the event the Army determines to enter into any contract for the sale or transfer of any portion of the Site, the Army will comply with the requirements of CERCLA Section 120(h), 42 U.S.C. § 9620(h), in effectuating the sale or transfer, including all notice requirements. In addition, the Army shall include notice of this Agreement in any document transferring ownership or operation of any such portion of the Site to any subsequent owner and/or operator and shall notify U.S. EPA and ADEM of any such sale or transfer at least ninety (90) days prior to such sale or transfer.

B. No conveyance of title, easement, or other interest in the Army property on which any containment system, treatment system, monitoring system or other response action(s) is required, installed or implemented pursuant to this Agreement shall be consummated by the Army without provision for performance under the Agreement, including continued maintenance of any such system or other response action(s). At least thirty (30) days prior to any conveyance, the Army shall notify U.S. EPA and the ADEM Director of provisions made for any additional

remedial action measures, if required, including the continued operation and maintenance of any response action(s) or systems installed or implemented pursuant to this Agreement.

C. No change in ownership of the Site or any portion thereof, or notice pursuant to Section 120(h)(3) of CERCLA, 42 U.S.C. § 9620(h)(3), shall relieve the Army of its obligation to perform pursuant to this Agreement.

XXXI. PUBLIC PARTICIPATION

A. The Parties agree that work conducted under this Agreement and any subsequent proposed remedial action alternative(s) and subsequent plan(s) for remedial action at the Site arising out of this Agreement shall comply with the administrative record and public participation requirements of CERCLA/SARA, including Section 117 of CERCLA/SARA, the NCP, and U.S. EPA guidances on public participation and administrative records.

B. The Army shall develop and implement a Community Relations Plan (CRP) which responds to the need for an interactive relationship with all interested community elements, both on ANAD and off, regarding activities and elements of work undertaken by the Army. The Army agrees to develop and implement the CRP in a manner consistent with Section 117 of CERCLA/SARA, the NCP, U.S. EPA guidelines set forth in U.S. EPA's Community Relations Handbook, and any modifications thereto.

C. Any Party issuing a formal press release to the media regarding any of the work required by this Agreement shall advise the other Parties of such press release and the contents thereof, at least 2 business days before the issuance of such press release and of any subsequent changes prior to release.

D. The Army agrees it shall establish and maintain an Administrative Record, which will include an index of all documents contained therein, at or near ANAD in accordance with Section 113(k) of CERCLA/SARA. The Administrative Record shall be established and maintained in accordance with current and future U.S. EPA policy and guidelines. A copy of each document placed in the Administrative Record will be provided to the U.S. EPA and ADEM as it is generated. An updated index of documents in the Administrative Record shall be provided to U.S. EPA and ADEM on a quarterly basis.

E. The Army agrees it shall follow the public participation requirements of CERCLA/SARA Section 113(k) and comply with any guidance and/or regulations promulgated by U.S. EPA with respect to such Section.

XXXII. PUBLIC COMMENT

A. When the Parties agree that this Agreement or any future amendments thereto, is ready for public review and comment, U.S. EPA shall announce the availability of this Agreement or amendment(s) to this Agreement for public review

and comment. U.S. EPA shall accept comments from the public for a period of forty-five (45) days after such announcement. At the end of the comment period, the Parties shall review all such comments and shall either:

1. Determine that the Agreement should be made effective in its present form and then be submitted for execution by those Parties; or

2. Determine that further negotiation of the Agreement is necessary, in which case the Parties shall return to negotiation, if agreement among the Parties is reached, the Agreement and a Responsiveness Summary shall be submitted again for public comment under Paragraph A pursuant to Sections 117 and 211 of CERCLA/SARA. 42 U.S.C. Section 6917 and 10 U.S.C. Section 2705.

B. When the Parties finalize the Agreement, or any amendment(s), U.S. EPA shall issue an Article of Decision for the Agreement.

XXXIII. AMENDMENT OR MODIFICATION OF AGREEMENT

This Agreement may be amended or modified solely on written consent of all Parties.

Any Party may submit a written request for modification to the other Parties.

In the event of significant amendment or modification, the notice procedures of CERCLA Section 117 and SARA Section 211

shall be followed. The effective date of the amendment or modification to the Agreement shall be the date the written agreement is signed by the Parties, or the date of conclusion of any required comment procedures pursuant to CERCLA Section 117, whichever is later.

XXXIV. RESERVATION OF RIGHTS

By entering into this Agreement, ADEM does not implicitly or expressly waive any of its rights or authority, under any law, but expressly reserves herein all of its rights and authority it may have thereunder, including, but not limited to, any rights or authority under provisions of Code of Alabama, Section 22-22A-1 et seq., or any provision of any other state, federal or local law, including any laws pursuant to a federally authorized program.

Likewise, the Army reserves the right to raise or assert any defense, whether procedural or substantive, in law or equity, or to raise any issue as to jurisdiction, or standing of any Party, or any other matter in any proceeding related or not related to this Agreement, which the Army might otherwise be entitled to raise or assert.

However, all Parties expressly agree to exhaust any applicable remedies provided in Paragraph XII. (Consultation) and Paragraph XXVIII. (Dispute Resolution), as provided in Paragraph XXXV. (Enforceability), prior to exercising any such rights or

authority noted in this Part or any right to judicial or administrative review or enforcement.

XXXV. ENFORCEABILITY

A. The Parties agree that:

1. Upon the effective date of this Agreement, any standard, regulation, condition, requirement or order which has become effective under CERCLA and is incorporated into this Agreement is enforceable by any person pursuant to Section 310 of CERCLA, and any violation of such standard, regulation, condition, requirement or order will be subject to civil penalties under Sections 310(c) and 109 of CERCLA; and

2. All timetables or deadlines associated with the RI/FS shall be enforceable by any person pursuant to Section 310 of CERCLA, and any violation of such timetables or deadlines will be subject to civil penalties under Sections 310(c) and 109 of CERCLA;

3. All terms and conditions of this Agreement which relate to operable unit or final remedial actions, including corresponding timetables, deadlines or schedules, and all work associated with the operable unit or final remedial actions, shall be enforceable by any person pursuant to Section 310(c) of CERCLA, and any violation of such terms or conditions will be subject to civil penalties under Sections 109 and 310(c) of CERCLA; and

4. Any final resolution of a dispute pursuant to Part XXVIII. of this Agreement which establishes a term, condition, timetable, deadline or schedule shall be enforceable by any person pursuant to Section 310(c) of CERCLA, and any violation of such term, condition, timetable, deadline or schedule will be subject to civil penalties under Sections 109 and 310(c) of CERCLA.

5. Consistent with this Agreement, ADEM agrees to exhaust fully the remedies provided in Paragraph XII. (Consultation) and Paragraph XXVIII. (Dispute Resolution) of this Agreement prior to taking any other enforcement action it may have the authority to exercise relative to the Site.

B. Nothing in this Agreement shall be construed as authorizing any person to seek judicial review of any action or work where review is barred by any provision of CERCLA, including Section 113(h) of CERCLA.

C. Nothing in this Agreement shall be construed as a restriction or waiver of any rights which the U.S. EPA or ADEM may have under CERCLA, including but not limited to any rights under Sections 113 and 310, 42 U.S.C. § 9613 and 9659. The Army does not waive any rights it may have under CERCLA Section 120, SARA Section 211 and Executive Order 12580.

D. The Parties agree to exhaust their rights under Paragraph XXVIII. (Dispute Resolution) prior to exercising any

rights to judicial review that they might have.

E. The Parties agree that all Parties shall have the right to enforce the terms of this Agreement.

XXXVI. TERMINATION

The provisions of this Agreement shall be deemed satisfied and terminated upon receipt by the Army of written notice from U.S. EPA and ADEM that the Army has demonstrated, to the satisfaction of the U.S. EPA and ADEM, that all the terms of this Agreement have been completed. The Army may propose in writing the termination of this Agreement upon a showing that the objectives of this Agreement have been satisfied. A Party opposing termination of this Agreement shall notify the Army, in writing, and provide a copy of the objection to the other Party, within ninety (90) days of receipt of the Army proposal. Disputes concerning the termination shall be subject to dispute resolution in Part XXVIII. No Party shall unreasonably withhold approval of the Army's termination proposal.

XXXVII. FUNDING

A. It is the expectation of the Parties to this Agreement that all obligations of the Army arising under this Agreement will be fully funded. The Army agrees to seek sufficient funding through the DOD budgetary process to fulfill its obligations under this Agreement.

B. In accordance with Section 120(e)(5)(B) of CERCLA, 42 U.S.C. § 9620(e)(5)(B), the DOD shall include in its annual report to Congress the specific cost estimates and budgetary proposals associated with the implementation of this Agreement.

C. Any requirement for the payment or obligation of funds, including stipulated penalties, by the Army, established by the terms of this Agreement, shall be subject to the availability of appropriated funds, and no provision herein shall be interpreted to require obligation or payment of funds in violation of the Anti-Deficiency Act, 31 U.S.C. § 1341. In cases where payment or obligation of funds would constitute a violation of the Anti-Deficiency Act, the dates established requiring the payment or obligation of such funds shall be appropriately adjusted.

D. If appropriated funds are not available to fulfill the Army's obligations under this Agreement, U.S. EPA and ADEM reserve the right to initiate an action against any other person, or to take any other response action which would be appropriate absent this Agreement.

E. Funds authorized and appropriated annually by Congress under the "Environmental Restoration, Defense" appropriation in the Department of Defense Appropriation Act and allocated by the DASD(E) to the Army will be the source of funds for activities required by this Agreement consistent with Section 211 of CERCLA/SARA, 10 U.S.C. Chapter 160. However, should the

"Environmental Restoration, Defense" appropriation be inadequate in any year to meet the total Army CERCLA implementation requirements, the DOD shall employ and the Army shall follow a standardized DOD prioritization process which allocates that year's appropriations in a manner which maximizes the protection of human health or welfare and the environment. A standardized DOD prioritization model shall be developed and utilized with the assistance of U.S. EPA and the states.

[End Section XXXVII]

XXXVIII. EFFECTIVE DATE

A. This Agreement is effective upon its execution by all Parties and notification of the Parties by U.S. EPA.

B. This Agreement will not be executed until such time as public participation requirements of Section XXXII (Public Comment) of this Agreement have been satisfied.

IT IS SO AGREED:

FOR THE U.S. DEPARTMENT OF THE ARMY:

Lewis D. Walker
Lewis D. Walker
Deputy Assistant Secretary for
Environment, Safety and Occupational Health
Office of the Assistant Secretary
of the Army

4/12/90
DATE

FOR THE U.S. ENVIRONMENTAL PROTECTION AGENCY:

Lee G. Tidwell, Acting
Greer C. Tidwell
Regional Administrator
Region IV

APR 26 1990
DATE

FOR THE ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT:

Leigh Pegues
Leigh Pegues
Director
Alabama Department of
Environmental Management

5/1/90
DATE

XXXVIII. EFFECTIVE DATE

A. This Agreement is effective upon its execution by all Parties and notification of the Parties by U.S. EPA.

B. This Agreement will not be executed until such time as public participation requirements of Section XXXII (Public Comment) of this Agreement have been satisfied.

IT IS SO AGREED:

FOR THE U.S. DEPARTMENT OF THE ARMY:

Lewis D. Walker
Lewis D. Walker
Deputy Assistant Secretary for
Environment, Safety and Occupational Health
Office of the Assistant Secretary
of the Army

4/12/90

DATE

FOR THE U.S. ENVIRONMENTAL PROTECTION AGENCY:

Lee A. Tidwell, Acting
Greer C. Tidwell
Regional Administrator
Region IV

APR 26 1990

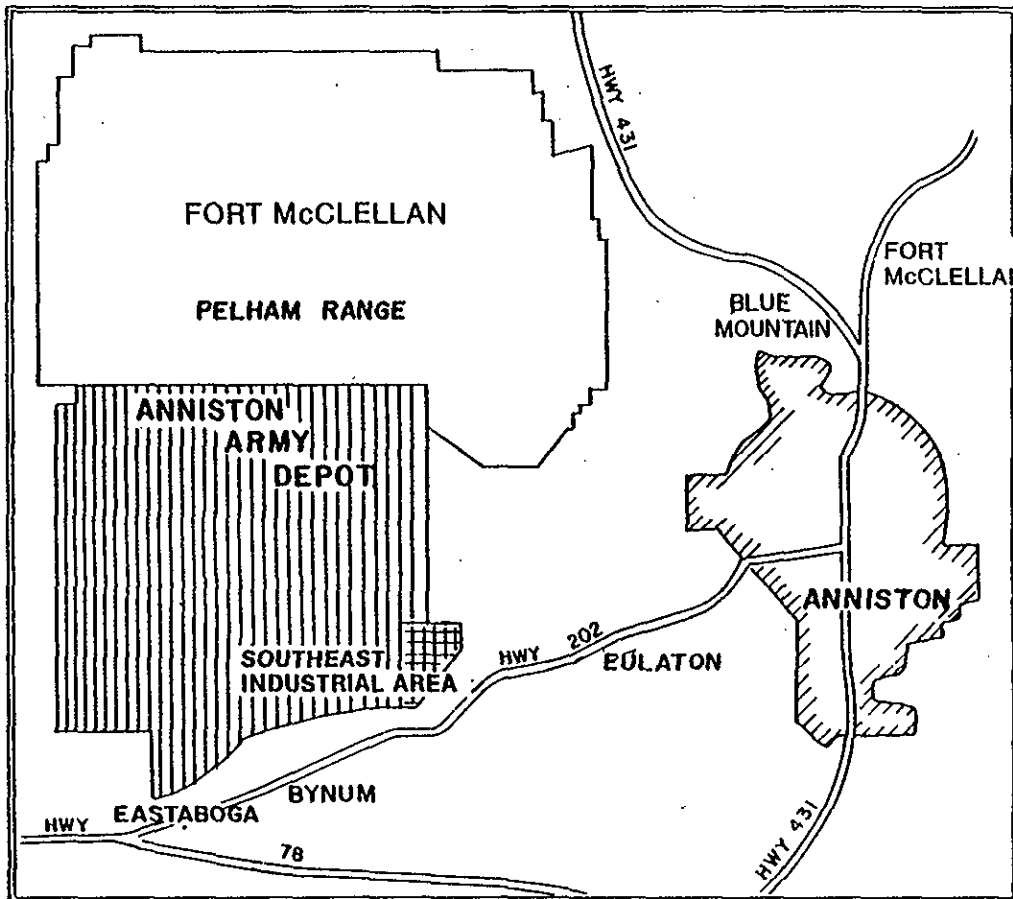
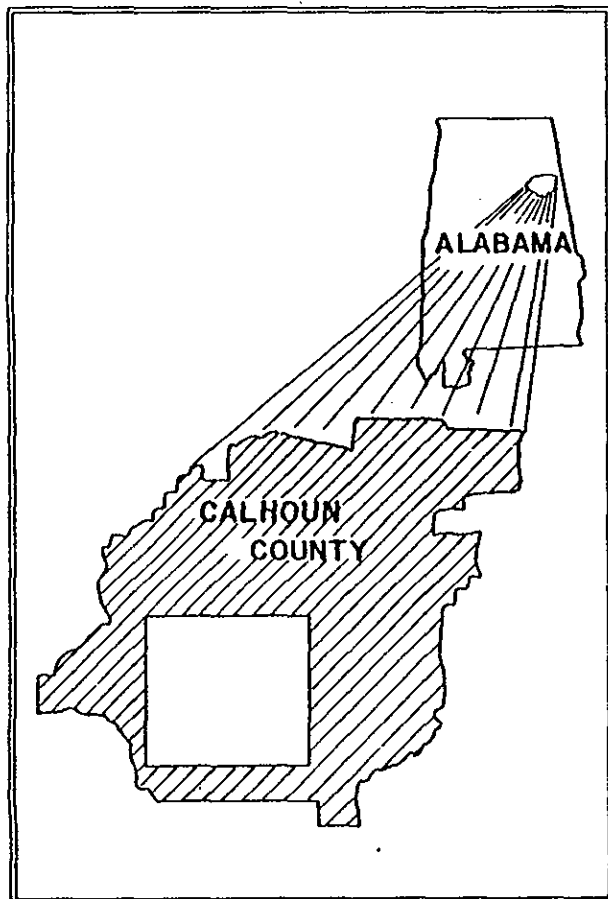
DATE

FOR THE ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT:

Leigh Pegues
Leigh Pegues
Director
Alabama Department of
Environmental Management

5/1/90

DATE



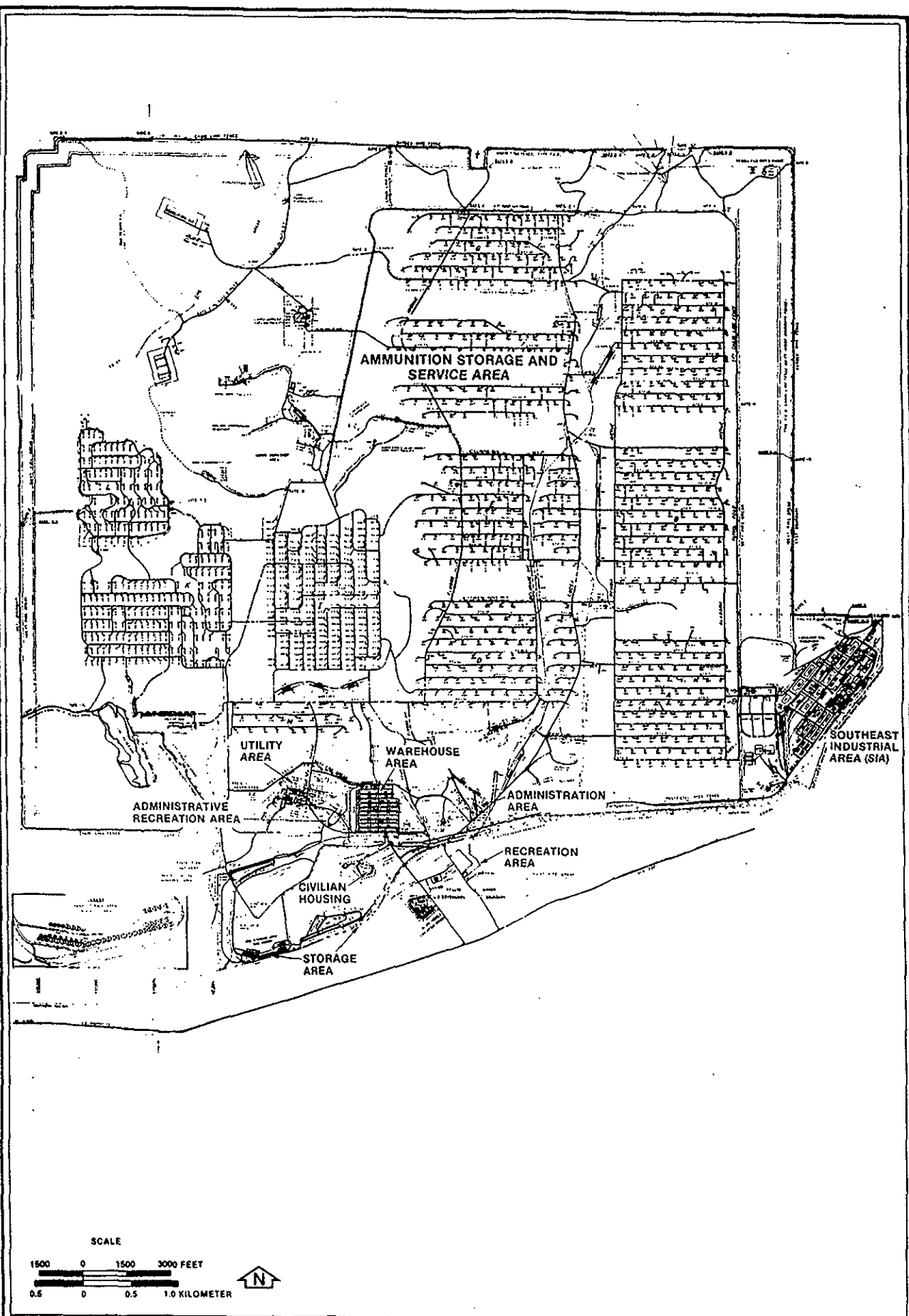
0 25 5
SCALE IN MILES

ANAD GENERAL LOCATION MAP

APPENDIX 1
PAGE 1/2

ANNISTON ARMY DEPOT
Remedial Investigation

Anniston, Alabama



Appendix 2

SOLID WASTE MANAGEMENT UNITS ANNISTON ARMY DEPOT

<u>UNIT</u>	<u>DESCRIPTION</u>
1	Chemical Sludge Waste Pits
2	Sanitary Landfill
3/4	Old and New Industrial Wastewater Treatment Plants
5	Sink Hole Disposal Area
6	Valve Disposal Pit
7	Chemical Waste Burial Pit
8	Acid Disposal Pit
9	Calcium Hypochlorite Burial Pit
10	TNT Washout Facility
11	Sedimentation Tank Leaching Bed
12	Facility 414 (old Lagoon)
13	Acid Chemical Waste Pit
14	Laundry Waste Leaching Facility
15	Propellant Disposal Facility
16	Burning Ground
17	Demolition Pit
18/19	Old Sewage Treatment Plant and Drying Beds
20	New Sewage Treatment Plant
21	Abrasive Dust Landfill
22	A-Block Lagoon
23	Asbestos Waste Disposal Trench

Appendix 2

(Continue)

<u>UNIT</u>	<u>DESCRIPTION</u>
24	Old Sanitary Landfill
25	Building 130 Sump
26	North TNT Burial Pit
27	South TNT Burial Pit
28	Waste Wood Landfill
29	Old Lumber Disposal Yard
30	Northeast Lagoon Area
31	Building 114 (Metal Plating Shop)
32	Hazardous Waste Storage Building (Building 512)
33	Hazardous Waste Storage Building (Building 466/Old 512 Annex)
34	Chemical Storage Igloos (Total of 41)
35	Deactivation Furnace
36	Drill and Transfer System Site (Toxic Demilitarization Site)
37	Vehicle Wash Rack (Building 45)
38	Air Emission Baghouse (Abrasive Dust Collectors)
39	Dynamometer Wastewater Treatment System (Building 410)
40	Oil-Water Separator (Building 501)
41	Steam Cleaning Buildings (Bldgs 129, 130, 409, 421 & 503)
42	Paint Booths (Bldgs 129, 130, 143, 409 & 433)
43	Cyanide Pretreatment System (Building 506)

Appendix 3.

DESCRIPTION OF PRIMARY AND SECONDARY DOCUMENTS REQUIRED FOR SUBMISSION UNDER THIS AGREEMENT

The Primary Documents for the RI/FS process shall be as specified in the Federal Facility Agreement and shall include at a minimum the following:

- "Site Scope of Work";
- "Remedial Investigation Work Plan(s)";
- "Remedial Investigation Report(s)";
- "Risk Assessment Report(s)";
- "Feasibility Study Report(s)";
- "Proposed Remedial Action Plan(s)"; and
- "Record(s) of Decision".

I. REMEDIAL INVESTIGATION AND FEASIBILITY STUDY PROCESS

The following is a brief description of the Primary and Secondary documents and information necessary to document the RI/FS process, initiated with the establishment of the Site Administrative Record and concluded through the Site Record(s) of Decision.

A. Site Administrative Record (SAR):

The purpose for the SAR is to document the basis for selected response action(s) at the Site. The SAR shall incorporate at a minimum the following:

1. Record of public participation in the selection of Site response action(s).
2. Documentation necessary for judicial review of the decision process used to select response action(s) at the Site.
3. Guidance documents and technical literature.

B. Site Scope of Work:

The purpose for the Site Scope of Work is to document project scoping and provide a general plan and associated schedule (i.e., timelines) for work to be completed at the Site. The Site Scope of Work shall include at a minimum the following:

1. Actions necessary to mitigate immediate threats to human health or the environment.
2. A list of Operable Units subject to the Agreement.
3. A prioritization and rationale for the Operable Units at the Site.
4. Activities and schedules for work planned for the current Fiscal Year.
5. Work projections for subsequent Fiscal Years.

C. Site Community Relations Plan (CRP):

The purpose for the Site Community Relations Plan (CRP) is to provide guidelines for community relations activities at the Site to keep the concerned public informed of the Site response action activities. The Site CRP must incorporate at a minimum the following:

1. Specific community relations activities to be implemented.
2. The concerns expressed during interviews with people from the local community.
3. Indication of how the public will contribute to Site response action decisions.
4. A forum where conflict can be constructively resolved.
5. Coordination with RCRA or other related (e.g., NEPA) community relations activities, as appropriate.

D. Remedial Investigation (RI) Statement(s) of Work (SOW):

The purpose for the RI SOW(s) is to provide the basis for the development of Site/Operable Unit RI Work Plan(s). The RI SOW(s) shall include at a minimum the following:

1. Summary of Site/Operable Unit existing information.
2. General purpose and objectives of the RI/FS.
3. Brief description of tasks to obtain objectives.

E. Remedial Investigation Work Plan(s):

The purpose for RI Work Plan(s) is to provide details of planned RI/FS field work and laboratory analysis. The Work Plan(s) should include at a minimum the following:

1. Rationale and expected results or goals of RI/FS.
2. Detailed history of Site/Operable Unit, including physical setting and all existing information.
3. Description of the potential migration and exposure pathways.
4. Documentation of potential human exposure and environmental concerns.
5. Documentation of data required for the Risk Assessment and the alternatives evaluation.
6. Explanation of how planned work activities will provide the required data.
7. Details of the following tasks:
 - a. project planning, including but not limited to the following:
 - Site/Operable Unit reconnaissance and limited field investigations;
 - identification of preliminary remedial action objectives and potential remedial alternatives;

- identification of necessary treatability studies;
- preliminary identification of applicable, or relevant and appropriate requirements (ARARs); and
- initiation of coordination with analytical laboratories,
- b. implementation of the Site CRP,
- c. field investigation(s),
- d. sample analysis and validation,
- e. data evaluation, and
- f. initial screening and detailed analysis of alternatives.

F. Site Sampling and Analysis Plan (SAP):

The purpose for the Site SAP is to assure sample collection and laboratory analysis quality control. The Site SAP should include at a minimum the following:

1. Field Sampling Plan (FSP) providing for all field procedures by defining in detail the sampling objectives and methods, and decontamination procedures to be used.
2. Quality Assurance Project Plan (QAPP) describing the policy, organization, functional activities, quality assurance and quality control protocols, and analytical procedures necessary to achieve the data quality objectives (DQOs) dictated by the scope and objectives of the RI/FS.

G. Site Health and Safety Plan (HSP):

The purpose for the Site Health and Safety Plan (HSP) is to provide a contingency plan which satisfies OSHA requirements through detailed Site standard operating procedures. The Site HSP shall at a minimum provide for the following:

1. Identification of key Site health and safety personnel and document the necessary Site measures to control the risk associated with existing Site conditions.
2. Details of a contingency plan and Site standard operating procedures.
3. Identification potential problems and special Site requirements ensuring safe field activity.
4. Site safety briefings before implementation of the Site SAP and inspections during field activity.

H. Site Quarterly Progress Report(s):

The purpose for Site Quarterly Progress Report(s) is to document Site response action progress and problems. The Quarterly Report(s) shall at a minimum provide the following:

1. Documentation of completed work and delays in schedule.

2. Discussion of planned activities scheduled for the next quarter.
3. Information on Operation and Maintenance (O&M), and a summary environmental monitoring results.

I. Preliminary Characterization Summary Report(s):

The purpose for Preliminary Characterization Summary Report(s) is to provide supportive information for the Baseline Risk Assessment Report(s). The Characterization Report(s) shall include at a minimum the following:

1. Summary of data from initial sampling and analysis activity.
2. Documentation of the development and initial screening of remedial alternatives.
3. Documentation of potential ARARs.
4. The necessary information to form the basis for the Site Health Assessment conducted by the Agency for Toxic Substances and Disease Registry (ATSDR).

J. Baseline Risk Assessment Report(s):

The purpose for Baseline Risk Assessment Report(s) is to provide an evaluation of the potential threats to human health or welfare, and the environment in the absence of any remedial action. Baseline Risk Assessment Report(s) must include at a minimum the following:

1. Summary of existing response actions and their effectiveness.
2. Documentation of Site/Operable Unit imminent and substantial endangerment.
3. The necessary information to form the basis for Risk Assessment Report(s).
4. Determination of indicator chemicals, estimation of exposure point concentrations of indicator chemicals and chemical intakes, and an assessment of toxicity.

K. Treatability Study Report(s):

The purpose for Treatability Study Report(s) is to report on the feasibility of a treatment technology or process. Treatability Study Report(s) must include at a minimum the following:

1. Sufficient data to allow treatment alternatives to be fully developed and evaluated during the detailed analysis and to support the remedial design of the selected alternative.
2. Documentation of performance uncertainties and operating parameters.

L. Remedial Investigation Report(s):

The purpose for Remedial Investigation Report(s) is to report on the results of field characterization studies and laboratory analysis. RI Report(s) shall include at a minimum the following:

1. Presentation of the physical characteristics of the Site/Operable Unit.
2. Definition of the source(s) of contamination at the Site/Operable Unit.
3. Characterization of the nature and extent of Site/Operable Unit contamination for all media.
4. Presentation of the results from the development and initial screening of alternatives.
5. The data necessary to support the Feasibility Study.

M. Risk Assessment Report(s):

The purpose for Risk Assessment Report(s) is to expand on the Baseline Risk Assessment Report(s) and, to the degree possible, to determine the actual risk associated with a Site/Operable Unit. Risk Assessment Report(s) shall at a minimum include the following:

1. Characterization of the risk and uncertainties concerning noncarcinogenic and potential carcinogenic effects associated with Site/Operable Unit contamination.
2. Development of performance goals and risk analysis for potential remedial alternatives based on Site/Operable Unit ARARs.
3. The information necessary to support Feasibility Study Report(s).

N. Feasibility Study Report(s):

The purpose for Feasibility Study Report(s) is to present the results of the detailed analysis of alternatives. Feasibility Study Report(s) shall provide the necessary information to support the Site/Operable Unit Proposed Remedial Action Plan(s) and Record(s) of Decision.

O. Proposed Remedial Action Plan(s):

The purpose for Proposed Remedial Action Plan(s) (PRAPs) is to provide a brief analysis of remedial alternatives under consideration for the Site/Operable Unit and propose the preferred alternative(s). The Parties shall publish a notice of the availability of the PRAP, RI

and FS Report(s), and the SAR in a major local newspaper of general circulation. At a minimum, the Proposed Remedial Action Plan(s) shall:

1. Highlight the RI and FS Report(s).
2. Provide the public with all necessary information and an opportunity to participate in the remedy selection process.

P. Record(s) of Decision:

The purpose for Record(s) of Decision (RODs) is to document the final remedial action decisions for the Site/Operable Unit. At a minimum the ROD(s) must:

1. Summarize the problems affecting implementation of the selected remedy for the Site/Operable Unit and provide an analysis of the alternative ways to address those problems.
2. Provide a Decision Summary addressing public comment expressed concerning the PRAP, RI and FS Report(s), and other information made available in the SAR.

The Primary Documents for the RD/RA process shall be as specified in the Federal Facility Agreement and shall include at a minimum the following:

- "Remedial Design Report(s)";
- "Remedial Action Work Plan(s)";
- "Final Remediation Report(s)"; and
- "Site NPL Closeout Report".

II. REMEDIAL DESIGN AND REMEDIAL ACTION PROCESS

The following is a brief description of the Primary and Secondary documents and information necessary to document the RD/RA process, initiated with Remedial Design Implementation Plan(s) and completed through the Site NPL Closeout Report.

A. Remedial Design Implementation Plan(s):

The purpose for Remedial Design Implementation Plan(s) is to describe how the design will meet the scope and goals of the approved remedial action plan for the Site/Operable Unit. At a minimum, the Remedial Design Implementation Plan(s) shall:

1. Provide the Schedules for the submission of the Remedial Pre-Design and Design Reports and related activities.
2. Describe how, prior to the initiation of design, the Parties will initiate and/or revise the CRP to address community concerns anticipated during the RD/RA process or indicate how they are addressed by the CRP.

B. Remedial Pre-Design Report(s):

The purpose for Remedial Pre-Design Report(s) is to provide a summary of the factors of the selected remedy that will affect the design, construction and completion of the remedial action. At a minimum, the Remedial Pre-Design Report(s) shall:

1. Provide Site/Operable Unit description(s) including a topographic map and preliminary layout of remedial activities.
2. Briefly describe the following:
 - description of remedy;
 - scope and goals of remedy;
 - preliminary design criteria and rationale;
 - general operation and maintenance requirements;
 - short and long term environmental monitoring requirements;
 - specific factors from RI/FS affecting remedy;
 - results and impacts of applicable tests or studies; and
 - description of additional tests or studies needed to design or implement RA.
3. Provide special Design/Implementation Considerations including:
 - special technical considerations;
 - additional engineering/Site data required;
 - permit and/or regulatory requirements (ARARs);
 - access, easements, right-of-way needs; and
 - specific health and safety considerations.

C. Remedial Design Report(s):

The purpose for Remedial Design Report(s) is to expand on the Remedial Pre-Design Report(s) and to document final design criterion. The Remedial Design Report(s) shall:

1. Describe how the design will implement and accomplish the goals of the approved Remedial Action Plan and the selected remedy.
2. Provide the schedules for completion of various components of the preliminary and final designs listed below and implementation/completion of work (e.g., Site selection, Site preparation, construction, testing, start-up, etc.).
3. Provide Design Plans and Specifications, including:
 - a. preliminary design addressing not less than 30% of the total design based on the information in the Remedial Design Report,
 - b. pre-final design at 90% completion which shall include all functional details, specifications and drawings, and
 - c. final design at 100% completion with final construction drawings and specifications.

D. Remedial Action Work Plan(s):

The purpose for Remedial Action Work Plan(s) is to provide a plan which will explain in detail how the approved remedial action will be implemented. Remedial Action Work Plan(s) shall include the following:

1. A Health and Safety Plan developed specifically for the RA.
2. A Sampling and Analysis Plan developed specifically for the RA.
3. A Permitting Plan to provide for satisfaction of all permitting requirements, both administrative and technical including ARARs and actions exempt from permitting.
4. An Environmental Monitoring Plan to address all potentially affected media as appropriate.
5. A schedule for the construction and operation of the approved remedy and remedial design and submission of the Final Remedial Action Report(s).

E. Remedial Action Post-Construction Report(s):

The purpose for Remedial Action Post-Construction Report(s) is to provide a close-out report that includes but is not limited to:

1. A final construction inspection report.
2. A brief description of any outstanding construction and/or testing items.
3. Certification by a registered professional engineer that the remedy is fully operational and functional as designed and planned.
4. Explanation of any changes in design, installation or operation from that described in previously submitted reports or plans.
5. As-built design and specifications and drawings and Final Operation and Maintenance Plan(s).

F. Final Remediation Report(s):

The purpose for Final Remediation Report(s) is to document the completion of remedial action. Upon completion of the remediation of the Site/Operable Unit the following information will be provided at a minimum:

1. How the Remediation has met the goals of the approved Remedial Action Plan.
2. A summary of Site/Operable Unit conditions including monitoring results and a detailed description of any remaining contamination or releases.

3. A description of any O&M requirements and assurances of applicable institutional controls that will be necessary.
4. Any recommendations for further action or monitoring at the Site/Operable Unit.

G. Site NPL Closeout Report:

The purpose for the Site NPL Closeout Report is to begin the process for delisting of a Site from the National Priorities List. The Report shall contain all information required and the deletion process shall be carried out in accordance with applicable EPA guidance and directives. As appropriate, the Parties shall publish a "Notice of Intent to Delete" when the Site is intended to be delisted from the National Priorities List (NPL).

REFERENCES

1. "Interim Guidance on Administrative Records for Selection of CERCLA Response Actions", OSWER Directive 9833.3A, March 1989.
2. "Administrative Record for Federal Facilities", EPA Region IV guidance, 1989.
3. "Superfund Remedial Design and Remedial Action Guidance", OSWER Directive 9355.0-4A, June 1986.
4. "Procedures for Completion and Deletion of NPL Sites", EPA 540 G-89002, OSWER Directive 9320.2-3A, April 1989.
5. "National Oil and Hazardous Substances Pollution Contingency Plan", 40 CFR 300, Proposed Rule (53 Federal Register 12-21-88).

Appendix 4.

RCRA/CERCLA TERMINOLOGY

RCRA CORRECTIVE ACTION
[3004(u)]

CERCLA REMEDIAL ACTION
[NCP]

COMBINATION
[RCRA/CERCLA]

ACRONYMS:

RFA:
RCRA Facility Assessment

PA/SI
Preliminary Assessment/
Site Inspection

RFA-PA/SI

RFI:
RCRA Facility Investigation

RI:
Remedial Investigation

RFI/RI

CMS:
Corrective Measure Study

FS:
Feasibility Study

CMS/FS

CMP:
Corrective Measures Plan

RAP:
Remedial Action Plan

CMP/RAP

CMD:
Corrective Measures Design

RD:
Remedial Design

CMD/RD

CM:
Corrective Measures

RA:
Remedial Action

CM/RA