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FEDERAL FACILITIES AGREEMENT
BETWEEN
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY - REGION IV,
GEORGIA ENVIRONMENTAL PROTECTION DIVISION,
AND
UNITED STATES DEPARTMENT OF THE NAVY
FOR THE
UNITED STATES MARINE CORPS
AT THE
MARINE CORPS LOGISTICS BASE
ALBANY, GEORGIA

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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IV

GEORGIA ENVIRONMENTAL PROTECTION DIVISION

AND

THE UNITED STATES DEPARTMENT OF THE NAVY

IN THE MATTER OF:

The U.S. Department of the Navy
Marine Corps Logistic Base

Albany, Georgia

)
) FEDERAL FACILITY AGREEMENT
) UNDER CERCLA SECTION 120
)
)
)
) U.S. EPA Administrative
) Docket Number:
)
)

Based on the information available to the Parties on the effective date of this FEDERAL FACILITY AGREEMENT (Agreement), 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 U.S. Environmental Protection Agency (U.S. EPA), Region IV, enters into those portions of this Agreement that relate to the Remedial Investigation/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 6001, 3008 (h), 3004 (u) and (v) of the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. § 6961, 6928 (h), 6924 (u) and (v), as amended by the Hazardous and Solid Waste Amendments of 1984 (HSWA) (hereinafter jointly referred to as RCRA/HSWA or RCRA) and Executive Order 12580;

B. U.S. EPA, Region IV, enters into those portions of this Agreement that relate to remedial actions/corrective actions pursuant to Section 120 (e) (2) of CERCLA/SARA, 42 U.S.C. § 9620 (e) (2), Sections 6001, 3008 (h), 3004 (u) and (v) of RCRA 42 U.S.C. § 6961, 6928(h), and 42 U.S.C. § 6924 (u) and (v) and Executive Order 12580;

C. The United States Department of Navy enters into those portions of this Agreement that relate to the RI/FS pursuant to Section 120 (e) of CERCLA, 42 U.S.C. § 9620 (e), Sections 6001, 3008

(h), 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.; and the Georgia Hazardous Waste Management Act, O.C.G.A. Section 12-8-60, et seq., and the rules and regulations promulgated thereunder, Chapter 391-3-11 (GHWMA), which have been authorized by the U.S. EPA Administrator pursuant to Section 3006, 42 U.S.C. § 6926, and to which the Marine Corps Logistics Base (MCLB) is subject pursuant to Section 6001 of RCRA 42 U.S.C. § 6961.

D. The Navy enters into those portions of this Agreement that relate to remedial actions for operable units and final remedial actions pursuant to Section 120 (e) (2) of CERCLA/SARA; 42 U.S.C. § 9620 (e) (2), Sections 6001, 3008(h); and 3004(u) and (v) of RCRA, 42 U.S.C. § 6961, 6928(h), and 6924(u) and (v); GHWMA; Executive Order 12580; and DERP.

E. The Georgia Environmental Protection Division (GEPD) enters into this Agreement pursuant to CERCLA/SARA, RCRA, and GHWMA.

II. PARTIES

The Parties to this Agreement are the U.S. EPA, GEPD and the U.S. Navy through the MCLB. The GEPD is entering into this Agreement pursuant to O.C.G.A. Section 12-8-65(a)(5) and (9) and with approval of the Governor. The terms of this Agreement shall apply to and be binding upon the U.S. EPA, the State of Georgia, and the Navy, its agents, employees, response action contractors for the site and all

subsequent owners, operators and lessees of MCLB. The Parties will notify each other of the identity, qualifications and assigned tasks of each of its contractors performing work under this Agreement upon their selection. This Section shall not be construed as an agreement to indemnify any person. For any contract in which a "pre-construction conference" or "pre-performance" conference is held, the Navy will provide notice of the existence of this Agreement to the contractor. 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 bind legally such Party to this Agreement.

III. DEFINITIONS

Except as noted below or otherwise explicitly stated, the terms herein shall have their ordinary meaning unless otherwise defined in CERCLA/SARA, the NCP, the Permit No. HW-050(ST) and/or GHWMA.

In addition:

RCLA ?

A. "Agreement" shall mean this document and shall include all attachments and/or appendices to this document referred to herein. All such attachments and/or appendices shall be appended to and made an integral and enforceable part of this document.

B. "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.

C. "CERCLA response and/or RCRA corrective action" means removal and remedial response activities conducted pursuant to CERCLA/RCRA and GHWMA.

D. "Documents" shall include but not be limited to any plan(s) or report(s) required pursuant to this Agreement.

E. "EPA" means the United States Environmental Protection Agency, its successors and assigns, and its duly authorized representatives, which may include its employees, agents, and contractors, as necessary.

F. "Facility" shall have the meaning set forth in CERCLA Section 101(9) and shall include but not be limited to, MCLB and any site or area(s) contaminated by the migration of hazardous substances, pollutants, contaminants, hazardous wastes or constituents from MCLB. *

G. "Facility IR Manager" is the individual designated by the MCLB who will provide technical assistance and on-site coordination as necessary to implement the MCLB's obligations under this Agreement. who
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H. "GEPD" means the Georgia Environmental Protection Division.

I. "Hazardous Substances" shall have the meaning set forth by Section 101 (14) of CERCLA, 42 U.S.C. § 9601 (14) and include hazardous waste and constituents as defined by GHWMA.

J. "HSWA" means the Resource Conservation and Recovery Act as codified at 42 U.S.C. § 6901 et seq., as amended by the Hazardous and Solid Waste Amendments of 1984, Public Law 98-616.

K. "Installation" shall mean the physical boundaries of the Marine Corps Logistics Base (MCLB), Albany, Georgia.

L. "Navy" shall mean the U.S. Marine Corps at the Marine Corps Logistics Base, Albany, Georgia, and shall also include non-Marine Corps personnel of the Department of the Navy responsible for administration, implementation of this Agreement, such as Southern Division, Naval Facilities Engineering Command; and the office of the Assistant Secretary of the Navy (Installations and Environment) (ASN I&E) as the signatory of this Agreement.

M. "Operable Unit" means a discrete action that comprises an incremental step toward comprehensively addressing site problems. Each operable unit manages migration, or eliminates/mitigates a release, threat of release or pathway of exposure. Operable units may address specific geographical portions of the site, specific site problems, or initial phases of a response (removal/remedial) action or may consist of any set of actions performed over time or any actions that are concurrent but located in different parts of the site. Operable units will not impede implementation of subsequent actions including final response actions at the site.

N. "Parties" means the Navy, EPA, and GEPR.

O. "Pollutant or Contaminant" shall have the same meaning as defined in 42 U.S.C. 9601 (33).

P. "Potential Sources of Contamination" (PSC) shall include, but not be limited to hazardous substances, hazardous wastes and hazardous constituents contained in drums, tanks, tank systems, surface impoundments, waste piles, landfills, SWMU (Solid Waste Management Units) and contaminated media.

Q. "Project Managers" are the individuals designated by the U.S. EPA, GEPD, and the Navy who oversee and provide technical assistance on the activities at the site.

R. "Proposed Remedial Action Plan" (PRAP) means the report that is compiled prior to issuance of public notice.

S. "Release" shall be used as that term is defined in Section 101(22) of CERCLA, 42 U.S.C. § 9601(22) and Permit No. HW-050(ST).

T. "Responsiveness Summary" means a summary of the comments received by the Parties from concerned groups or individuals during the public comment period on the Proposed Remedial Action Plan (PRAP), which documents public concerns and the responses to those concerns by the appropriate Party or Parties.

U. "Significant New Information" for the purposes of this Agreement means information that is of material assistance in protecting or evaluating impacts on the public health, welfare or the environment, or in evaluating the selection of response corrective action alternatives which became known after a document was finalized.

V. "Significant New Site Conditions" means those conditions both man-made and natural, including but not limiting to those conditions of geology, hydrogeology or contamination that were not reasonably foreseeable or known at the time a Remedial Investigation (RI) was initiated.

W. "Site Management Plan" (SMP) means the yearly plan submitted by the Navy with a list of PSC, priorities and schedule of actions to be taken for the current calendar year and projections for subsequent calendar year(s).

X. "Solid Waste Management Units" (SWMUs) means those units identified by the Permit No. HW-050(ST) which includes, but is not limited to, any landfill, surface impoundment, waste pile, land treatment unit, incinerator, injection well, tank (including storage, treatment, and accumulation tanks), container storage unit, wastewater treatment unit, including all conveyances and appurtenances used in waste management or storm water handling, elementary neutralization unit, transfer station, or recycling unit from which hazardous waste, hazardous waste constituents or hazardous constituents might migrate, irrespective of whether the units were intended for the management of solid and/or hazardous waste.

Y. "Southern Division Naval Facilities Engineering Command" (SOUTHNAVFACENGCOM) means the Naval command that will designate the Navy Project Manager who is tasked to manage the fiscal and

technical aspects of the Installation Restoration Program (IRP) at the site.

IV. INSTALLATION DESCRIPTION

A. For the purposes of this Agreement, the United States Marine Corps Logistics Base, MCLB is located on 3,578.6 acres, more or less, located 5 miles southeast of Albany, Georgia. Albany is situated 176 miles south of Atlanta and 90 miles southeast of Columbus. (See Appendix C, the Regional and Appendix D, the Vicinity maps.) MCLB is divided into three areas: MCLB (the facility), the Boyette Housing Area and the Branch Clinic (Housing Area Number 1). The primary missions of MCLB are to execute that phase of military logistics which controls the acquisition, availability, and disposal of material under its cognizance; to exercise technical direction of the Marine Corps Stores and Distribution System; to procure, maintain, repair and rebuild, store and distribute supplies and equipment as assigned; and to conduct such formal schools and training as may be directed. Work in support of the base mission includes maintenance, repairs and rebuilding of ground combat and combat support equipment, fuel storage and motor transport. Maintenance activities at MCLB over the years generated a variety of materials which were disposed on the facility. These materials include construction debris; miscellaneous industrial wastes including waste fuel, oil, paints, thinners and solvents; and municipal wastewater treatment plant sludge. Current disposal practices are regularly surveyed for conformity to local, state, and federal regulations.

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B. Four aquifers underlie the MCLB site and the Albany area. From the most shallow to the deepest they include the Ocala, Tallahatta, Clayton and Providence aquifers. The MCLB obtains water from three deep wells located on base. They are multiaquifer wells drawing water from the Ocala, Tallahatta and Clayton aquifers. Water for both domestic and industrial use in the Albany area is supplied by a city owned system of multiaquifer artesian wells tapping the Tallahatta, Clayton, and Providence aquifers. In Dougherty County, most domestic supplies and a few irrigation and industrial supplies are obtained from private wells which penetrate the Ocala limestone.

C. Seventeen Potential Sources of Contamination (PSC) have been identified within the site and are listed in Appendix A. The Parties will continually clarify the extent of the site on the basis of additional investigations performed by the Navy to more accurately reflect the areas contaminated by hazardous substances, pollutants, contaminants or constituents, related in whole or in any part to the MCLB. If any additional PSC are discovered, Attachment A will be amended to reflect the new sources.

V. FINDINGS OF FACT

A. For the purposes of this Agreement, the following constitutes a summary of the findings upon which this Agreement is based. None of the facts related herein shall be considered admissions by any party. This paragraph contains findings of fact,

determined solely by the Parties and shall not be used by any other person related or unrelated to this Agreement for purposes other than determining the basis of this Agreement.

B. MCLB was commissioned as the Marine Corps Depot of Supplies in 1952. In 1954, it assumed supply support for Marines east of the Rocky Mountains and in the Atlantic area and was renamed Marine Corps Supply Center. In 1954, a large industrial repair facility was completed and began to function at the base. In 1976, inventory control, financial management, procurement and technical support functions were relocated from Philadelphia to Albany. The base again changed names to Marine Corps Logistics Support Base, Atlantic in 1976. In 1978, the base was given its present name.

C. In September 1985, Navy Energy and Environmental Support Activity (NEESA) submitted an Initial Assessment Study (IAS) to identify and assess areas posing a potential threat to human health or to the environment due to contamination from past hazardous materials operations at the MCLB. The IAS identified 8 PSC at the MCLB, and recommended 6 for further investigation. Six additional PSC were identified following the IAS. As a result of the findings in the IAS and the identification of additional PSC, the Navy, in 1986, submitted a work plan for a Verification Study.

D. On September 30, 1987, Permit No. HW-050(ST) was issued to the MCLB under the Georgia Hazardous Waste Management Act (GHWMA). The permit requires a RCRA Facility Investigation (RFI). The Navy

submitted the final RFI to GEPD in September, 1989. During the RFI, 9 areas were investigated. Of the nine areas that were investigated, six of the areas showed some level of contamination in the soil or groundwater. The contaminants found in the soil and groundwater included volatile organic compounds and heavy metals.

E. In accordance with Section 120(d)(2) of the Superfund Amendments and Reauthorization Act of 1986, U.S. EPA prepared a final Hazard Ranking System (HRS) Scoring Package. The HRS score determined for the MCLB made the facility eligible for the NPL. The MCLB was added to the NPL on December 21, 1989.

F. MCLB developed a Technical Review Committee (TRC) which included members from U.S. EPA, GEPD, local government, as well as a member to represent private citizens. The TRC was developed to inform the public and the regulatory agencies of the Navy's actions at the facility and to receive comments on those actions. The first TRC meeting was held on September 11, 1989.

G. Based upon the information above, the Parties agree that the following are applicable to the provisions of this Agreement:

1. Work done and data generated prior to the effective date of this Agreement shall be retained and utilized as elements of the RI/FS pursuant to CERCLA and the RCRA analog (the RFI) to the maximum extent feasible without violating applicable or relevant and appropriate laws, regulations, or guidelines. The Parties acknowledge that the Navy is in the process of conducting some of

the work to be performed pursuant to this Agreement. The Navy may proceed with currently ongoing work.

2. To the extent that physical or substantive modification to work completed or work in progress is necessary, such modifications will be accomplished in accordance with this Agreement.

3. Appendix A, Part I lists those Potential Sources of Contamination which have been identified as requiring an RI/FS. Appendix A, Part II lists those Potential Sources of Contamination still undergoing investigation. The Parties will make a determination at the conclusion of the PA/SI or RFI, as agreed upon by the Parties, whether any further investigation or action will be required under CERCLA and RCRA for the Potential Sources of Contamination.

H. On the basis of the results of testing and analyses and U.S. EPA and GEPD files and records, the U.S. EPA and GEPD have made the following determinations which shall not be considered admissions by, nor shall they be legally binding on the MCLB or the U.S. Navy:

1. The United States is a "person" as defined by Section 101(21) of CERCLA, 42 U.S.C. § 9601(21), and the owner/operator of the MCLB as defined by Sections 101(20) and 107 (a)(1) of CERCLA, 42 U.S.C. § 9601(20) and 9607(a)(1).

2. MCLB is a "Facility" as defined by Section 101(9) of CERCLA, 42 U.S.C. § 9601(9).

3. Hazardous substances, pollutants, contaminants or constituents within the meaning of 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 CFR Part 261 (1988), as amended, have been managed and/or disposed of at the site.

4. There have been releases of hazardous substances, pollutants, contaminants or constituents into the environment at the site within the meaning of 42 U.S.C. § 9601(22), 9604, 9606, 9607 and Section 1004(5) of RCRA, 42 U.S.C. § 6903(5) and 40 CFR Part 261 (1988) as amended.

5. With respect to those releases and/or threat of releases, the Navy is a responsible party within the meaning of 42 U.S.C. § 9607 and is the Permittee subject to the terms and conditions of Hazardous Waste Facility Permit No. HW-050(ST) issued September 30, 1987 by GEPD (hereafter, HW-050(ST)).

I. The Navy has made the following determinations which shall not be legally binding upon the U.S. EPA or GEPD:

1. MCLB is an installation under the jurisdiction, custody, or control of the Department of Defense within the meaning of Executive Order 12580, 52 Federal Register 2923, January 29, 1987. The Department of the Navy is authorized to act on behalf of the Secretary of Defense for all functions which are relevant to this Agreement delegated by the President through Executive Order 12580.

2. MCLB is an installation under the jurisdiction of the Secretary of Defense within the meaning of the Superfund Amendment and Reauthorization Act (SARA) Section 211, 10 U.S.C. § 2701 et seq., and subject to the Defense Environmental Restoration Program (DERP) therein.

VI. PURPOSE

A. The general purposes of this Agreement are to:

1. Ensure that the environmental impacts associated with past and present activities at the site are thoroughly investigated and appropriate CERCLA response and RCRA/GHWMA 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), RCRA and pertinent guidance and policy consistently applied by U.S. EPA and GHWMA guidance and policy consistently applied by GEPD relevant to remediation at the site.

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

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

1. Identify incremental removal/remedial actions, also known as operable units, which are appropriate at specific locations of the site prior to the implementation of final CERCLA response or

RCRA/GHWMA corrective action(s). Any Party may propose incremental CERCLA response and RCRA/GHWMA corrective actions (operable units) to the other Parties and should do so as soon as the need for such incremental CERCLA response and RCRA/GHWMA corrective action is identified. This process is designed to promote cooperation among the Parties in identifying incremental CERCLA response and RCRA/GHWMA corrective actions prior to their final proposal. The Parties do not intend that the identification or proposal of any incremental CERCLA response and RCRA/GHWMA corrective actions preclude the timely initiation of emergency actions necessary to address immediate threats to human health, welfare or the environment pursuant to Section XI (Imminent and Substantial Endangerment) of this Agreement.

2. Establish requirements for the performance of RI to determine fully the nature and extent of the threat to the public health, welfare or the environment caused by the release and threatened release of hazardous substances, pollutants, contaminants or constituents at the site and to establish requirements for the performance of FS for the site to identify, evaluate, and select alternatives for the appropriate CERCLA response and RCRA/GHWMA corrective action(s) to prevent, mitigate, or abate the release or threatened release of hazardous substances, pollutants, contaminants or constituents at the site in accordance with CERCLA and RCRA.

3. Identify the nature, objective and schedule of CERCLA

response and RCRA/GHWMA corrective actions to be taken at the site. Such response actions at the site shall attain that degree of remediation of hazardous substances, pollutants, contaminants or constituents mandated by CERCLA and GHWMA.

4. Implement the selected CERCLA response/RCRA corrective action(s) in accordance with CERCLA and GHWMA.

5. Meet the requirements of Section 120(e)(2) of CERCLA, 42 U.S.C. § 9620(e)(2), for an interagency agreement among the Parties.

6. As provided in Section VII (Statutory Compliance/RCRA-CERCLA Integration) of this Agreement, assure compliance, through this Agreement, with GHWMA and other federal and state hazardous waste laws and regulations for matters covered herein as consistent with the NCP.

7. Coordinate CERCLA response/RCRA/GHWMA corrective actions at the Facility with the mission and support activities of tenant units at the Installation.

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

9. Provide for GEPD involvement in the initiation, development, and selection and enforcement of CERCLA response/RCRA/GHWMA corrective actions to be undertaken at the Facility, including the review of all applicable data as it becomes available and the development of studies, reports, and action plans.

10. Provide for operation and maintenance of any CERCLA response/RCRA/GHWMA corrective action selected and implemented pursuant to this Agreement.

11. To the extent possible, avoid directives from the U.S. EPA and GEPD to the Navy which create conflicting or inconsistent requirements.

VII. STATUTORY COMPLIANCE/RCRA-CERCLA INTEGRATION

A. The MCLB facility is subject to the terms and conditions of Hazardous Waste Facility Permit No. HW-050(ST), issued by GEPD. Within seven (7) days of the execution of this Agreement by all Parties, the Navy shall submit to GEPD Director a request, in accordance with Rule 391-3-11-.11 of GHWMA, to modify the permit to incorporate this Agreement, and the permit will be modified as provided by Georgia Law. The permit shall be similarly modified after selection of the final remedial action(s) for the facility or Operable Units and any public comment period shall run concurrently with the comment period in accordance with Section XXIX (Administrative Record and Public Participation) and Sections 117 and 113(k) of CERCLA.

In the event that any other permits are issued to the MCLB facility pursuant to GHWMA, the Navy may submit to the GEPD Director a request, in accordance with Rule 391-3-11-.11 of GHWMA, to modify any such permit to incorporate this Agreement, and the permit will be modified as provided by Georgia law. Any such permit shall be

similarly modified after selection of the final remedial action(s) for the facility or Operable Unit(s), and any public comment period shall run concurrently with the comment period in accordance with Section XXIX (Administrative Record and Public Participation) and Sections 117 and 113(k) of CERCLA.

Incorporation of this Agreement into any permit issued to MCLB by GEPD is solely for the purpose of achieving consistency between Navy's obligations under CERCLA/SARA and this Agreement and its corresponding obligations under GHWMA and any permits issued pursuant thereto.

B. The Parties intend to integrate the Navy's CERCLA response obligations and RCRA and GHWMA corrective action obligations which relate to the release(s) of hazardous substances, hazardous wastes, hazardous constituents, pollutants or contaminants into this comprehensive Agreement. 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, O.C.G.A.

12-8-66(e) of GHWMA and Hazardous Waste Permit No. HW-050(ST) for a RCRA permitted facility, and Section 3008(h), 42 U.S.C. § 6928(h) for interim status facilities; 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 Georgia law.

C. Based upon the foregoing, the Parties intend that any Remedial Action selected, implemented and completed under this Agreement will be protective of human health, welfare and the environment such that remediation of releases covered by this Agreement shall obviate the need for further corrective action under RCRA, as amended, and GHWMA. The Parties agree that with respect to releases of hazardous waste or hazardous constituents covered by this Agreement, RCRA/GHWMA shall be considered an applicable or relevant and appropriate requirement pursuant to Section 121 of CERCLA, 42 U.S.C. § 9621. Releases or other hazardous waste activities not covered by this Agreement remain subject to all applicable state and federal environmental requirements.

D. 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 NCP. The Parties further recognize that ongoing hazardous waste management activities at MCLB may require issuance of permits under Federal and State laws. This Agreement does not affect the requirements, if any, to obtain such permits. However, since a permit has been issued by GEPD to the MCLB for ongoing hazardous waste management activities, at the facility, GEPD shall reference and incorporate this Agreement, including appropriate schedules and provision for extension of such schedules, into such permit. U.S. EPA and Navy intend that the judicial review of any EPA issued permit conditions which reference

this Agreement shall, to the extent authorized by law, only be reviewed under the provisions of CERCLA. GEPD intends that its permit conditions shall be enforced consistent with Section XXVII A (5) and (6) Enforceability of this Agreement.

E. Nothing in this Agreement shall alter the Parties' authorities with respect to removal actions conducted pursuant to Section 104 of CERCLA, 42 U.S.C. § 9604; and any Removal Action shall be conducted in a manner consistent with this Agreement, CERCLA, the NCP, GHWMA and 10 U.S.C. § 2705.

VIII. CONSULTATION WITH U.S. EPA AND GEPD

Review and Comment Process for Draft and Final Documents

A. Applicability:

1. The provisions of this Section 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, 42 U.S.C. § 9620, and 10 U.S.C. § 2705, the Navy will normally be responsible for issuing primary and secondary documents to U.S. EPA and GEPD. As of the effective date of this Agreement, all draft and final documents identified herein shall be prepared, distributed and subject to dispute in accordance with Paragraphs B through J below.

2. The designation of a document as "draft" or "final" is solely for purposes of consultation with U.S. EPA and GEPD in

accordance with this Section. 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.

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

1. "Primary documents" include those reports, plans and studies that are major, discrete portions of RI/FS or RD/RA activities. Primary documents are initially issued by the Navy in draft subject to review and comment by U.S. EPA and GEPA. Following receipt of comments on a particular draft primary document, the Navy 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 either thirty (30) calendar 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, plans and studies that are discrete portions of the primary documents and are typically input or feeder documents. Secondary documents are issued by the Navy in draft subject to review and comment by U.S. EPA and GEPA. Although the Navy 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.