

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

NEW ENGLAND REGION AND

THE UNITED STATES DEPARTMENT OF THE ARMY

IN THE MATTER OF:)
)
U.S. Department of the Army) FEDERAL FACILITY AGREEMENT
Natick Laboratory Army Research,) Under CERCLA Section 120
D&E Center (Soldier Systems Center)
Natick, Massachusetts)

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)

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:

(i) The U.S. Environmental Protection Agency (EPA), New England Region (EPA New England or EPA Region 1), enters into those portions of this Agreement that relate to Remedial Investigation/Feasibility Study (RI/FS) pursuant to Sections 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), Pub. L. No. 99-499 (hereinafter jointly referred to as CERCLA/SARA or CERCLA), and §§ 6001, 3008(h) and 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;

(ii) EPA New England enters into those portions of this Agreement that relate to Interim Remedial Actions and final Remedial Actions pursuant to § 120(e)(2) of CERCLA/SARA, §§ 6001, 3008(h) and 3004(u) and (v) of RCRA, and Executive Order 12580;

(iii) The United States Department of the Army (Army) enters into those portions of this Agreement that relate to the RI/FS pursuant to § 120(e)(1) of CERCLA, §§ 6001, 3008(h) and 3004(u) and (v) of RCRA, Executive Order 12580, the National Environmental Policy Act, 42 U.S.C. § 14321, and the Defense

Environmental Restoration Program (DERP), 10 U.S.C. 2701 et seq.; and

(iv) The Army enters into those portions of this Agreement that relate to Interim Remedial Actions and final Remedial Actions pursuant to § 120(e)(2) of CERCLA/SARA, §§ 6001, 3004(u) and 3008(h) of RCRA, Executive Order 12580, and the DERP.

II. DEFINITIONS

2.1. Except as noted below or otherwise explicitly stated, the definitions provided in CERCLA and the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), 40 C.F.R. Part 300, shall control the meaning of terms used in this Agreement.

- 2.1.1. "Agreement" shall refer to this document and shall include all Appendices to this document. All such Appendices are integral parts of this Agreement and shall be enforceable to the extent provided herein.
- 2.1.2. "Applicable or Relevant and Appropriate Requirements" or "ARARs" shall mean "legally applicable" or "relevant and appropriate" requirements, standards, criteria or limitations, as those terms are used in CERCLA Section 121, 42 U.S.C. § 9621, and as defined in the NCP.
- 2.1.3. "Area of Concern" or "AOC" shall mean a geographical area at the Site where there is or has been a Release or threat of Release of Hazardous Substances, pollutants or contaminants, or where a Release of Hazardous Substances, pollutants or contaminants has migrated or threatens to migrate prior to completion of the proposed Remedial Action(s). Areas of Concern require further study through the RI/FS process or as part of a Removal Action conducted in accordance with CERCLA, the NCP and relevant Guidance. Areas of Concern identified as of the effective date of this Agreement are listed in Appendix B to this Agreement and are included in the Plan. Areas of Concern that are identified by the Parties after the effective date of this Agreement in accordance with Subsection 9.7 of this Agreement shall be included in the Plan in accordance with Section XI, *Deadlines and Contents of Site Management Plan*, and Section XII, *Budget Development And Amendment Of Plan*, of this Agreement.
- 2.1.4. "Army" or "Department of the Army" shall mean the United States Department of the Army, including its officers, employees, members, successors and authorized representatives, and assigns.

The Army shall also include the United States Department of Defense (DoD) to the extent necessary to effectuate the terms of this Agreement, including, but not limited to, appropriations and Congressional reporting requirements.

- 2.1.5. "CERCLA" shall mean the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. Section 9601 et seq., as amended by the Superfund Amendments and Reauthorization Act of 1986 (SARA), Public Law No. 99-499, and any amendments thereto.
- 2.1.6. "Community Relations" shall mean the program to inform and involve the public in the installation restoration process, including the CERCLA process, and to respond to community concerns.
- 2.1.7. "Days" shall mean calendar days, unless business days are specified. Any submittal, written statement of position, or written statement of dispute that, under the terms of this Agreement, would be due on a Saturday, Sunday, or Federal or State holiday shall be due on the following business day.
- 2.1.8. "Deadlines" shall mean the Near Term Milestones specifically established for the current fiscal year under the Site Management Plan (SMP). Deadlines are subject to stipulated penalties in accordance with Section XXI, *Stipulated Penalties*.
- 2.1.9. "DERP" shall mean the Defense Environmental Restoration Program as authorized by 10 U.S.C. § 2701 et seq. and any amendments thereto.
- 2.1.10. "Dispute Resolution" shall mean dispute resolution in accordance with Section XX, *Dispute Resolution*, of this Agreement.
- 2.1.11. "EPA" or "U.S. EPA" shall mean the United States Environmental Protection Agency, its employees, agents, authorized representatives, successors and assigns.
- 2.1.12. "Facility" shall mean that property owned by the United States and operated by the Army in Natick, Massachusetts formerly known as the Natick Laboratory Army Research, D&E Center and now known as the Soldier Systems Center (SSC), consisting of approximately 78 acres and including all areas identified in the map attached as Appendix A to this Agreement.
- 2.1.13. "Feasibility Study" or "FS" means a study conducted in accordance with CERCLA, the NCP and relevant Guidance that

fully develops, screens and evaluates in detail Remedial Action alternatives to prevent, mitigate or abate the migration or the Release of Hazardous Substances, pollutants or contaminants at and from the Areas of Concern. The Army shall conduct and prepare all FS(s) in a manner to support the intent and objectives of Section VIII, *Statutory Compliance/RCRA-CERCLA Integration*, of this Agreement.

- 2.1.14. "Fiscal year" or "FY" shall mean the time period used by the United States Government for budget management and commences on October 1 and ends September 30th of the following calendar year.
- 2.1.15. "Guidance" shall mean any requirements or policy directives published by EPA or that may be published by the State that are of general application to environmental matters and that are otherwise applicable to the Army's Work under this Agreement.
- 2.1.16. "Hazardous Substance(s)" shall mean all those substances that are included under CERCLA Section 101(14), 42 U.S.C. § 9601(14), which include any hazardous waste having the characteristics identified under or listed pursuant to Section 3001 of the Solid Waste Disposal Act, 42 U.S.C. § 6921.
- 2.1.17. "Interim Remedial Action" or "IRA" shall mean all discrete Remedial Actions implemented prior to a final Remedial Action that are taken to prevent or minimize the Release of Hazardous Substances, pollutants, or contaminants so that it does not migrate or endanger human health or the environment.
- 2.1.18. "Land Use Control" or "LUC" shall mean any restriction or administrative action, including engineering and institutional controls, arising from the need to reduce risk to human health and the environment.
- 2.1.19. "Milestones" shall mean the dates established by the Parties in the Plan for the initiation or completion of Primary Actions and the submission of Primary Documents and Project End Dates. Milestones shall include Near Term Milestones, Out Year Milestones, Primary Actions, and Project End Dates.
- 2.1.20. "Natick Laboratory Army Research, D&E Center" shall mean that property owned by the United States and operated by the Army in Natick, Massachusetts formerly known as the Natick Laboratory Army Research, D&E Center and now known as the "Soldier Systems Center" or "SSC" consisting of approximately 78 acres

and including all areas identified in the map attached as Appendix A to this Agreement. This Agreement shall refer to the “Natick Laboratory Army Research, D&E Center” as the “Soldier Systems Center” or “SSC” or as the “Facility.”

- 2.1.21. "National Contingency Plan" or "NCP" shall mean the National Oil and Hazardous Substances Pollution Contingency Plan, 40 C.F.R. Part 300, and any amendments thereto.
- 2.1.22. "Near Term Milestones" shall mean the Milestones within the current fiscal year (FY), the next fiscal year or "budget year" (FY+1), and the year for which the budget is being developed or "planning year" (FY+2).
- 2.1.23. "On-site" shall have the same meaning as provided in the NCP.
- 2.1.24. "Operable Unit" or "OU" shall mean a discrete action that comprises an incremental step toward comprehensively remediating the Site and that addresses one or more AOCs. This discrete portion of a remedial response manages migration, or eliminates or mitigates a Release, threat of Release, or pathway of exposure related to the Site. Operable Units may address geographical portions of the Site, specific Site problems, or initial phases of an 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. The cleanup of the Site can be divided into a number of Operable Units, depending on the complexity of the problems associated with the Site. The term "Operable Unit" is not intended to refer to the term "operating unit" as used in RCRA. All Operable Units shall be addressed in accordance with CERCLA, the NCP and EPA Guidance.
- 2.1.25. "Out Year Milestones" shall mean the Milestones within those years occurring after the planning year until the completion of the cleanup or phase of the cleanup (FY+3 through Project End Date).
- 2.1.26. "Parties" shall mean the Army and EPA.
- 2.1.27. "Performance Standards" shall mean the criteria representing the degree and method of cleanup to be achieved at an AOC, including all chemical-, location- and action-specific ARARs identified in the ROD(s), or identified by EPA, prior to certification of completion of the Work; and all other health or environmentally related numerical standards identified in the ROD(s).
- 2.1.28. “Plan” or “Site Management Plan,” unless the context indicates

otherwise, shall refer to the Site Management Plan, Soldier Systems Center, Natick, Massachusetts, attached as Appendix D to this Agreement.

- 2.1.29. "Primary Actions" as used in these definitions shall mean those specified major, discrete actions that the Parties identify as such in the Plan. The Parties should identify all major, discrete actions for which there is sufficient information to be confident that the date for taking such action is implementable.
- 2.1.30. "Primary Document" shall mean any document listed in Subsection 10.3 of this Agreement.
- 2.1.31. "Project End Dates" shall mean the dates established by the Parties in the Plan for the completion of major portions of the cleanup or completion of the cleanup of the Facility. The Parties recognize that, in many cases, a higher degree of flexibility is appropriate with Project End Dates due to uncertainties associated with establishing such dates.
- 2.1.32. "Project Manager" shall mean the person designated by each Party to represent that Party's interests and manage all Response Actions undertaken at the Site.
- 2.1.33. "Public Stakeholders" shall mean members of the public, including residents, environmentalists, community leaders, public officials, citizens action groups, and any other interested parties, and the State.
- 2.1.34. "RCRA" shall mean the Resource Conservation and Recovery Act, 42 U.S.C. §§ 6901 et seq., as amended by HSWA, and any amendments thereto.
- 2.1.35. "Record(s) of Decision" or "ROD(s)" shall be the public document(s), prepared in accordance with CERCLA, the NCP and relevant Guidance, that select(s) and explain(s) which Remedial Action alternative(s) will be implemented at each Operable Unit at the Site, and includes the bases for the selection of such Remedy(ies). These bases include, but are not limited to, information and technical analyses generated during the RI/FS and consideration of public comments and community concerns.
- 2.1.36. "Release" shall have the same meaning as provided in CERCLA Section 101(22), 42 U.S.C. § 9601(22), and the NCP.

- 2.1.37. “Remedial Design” or “RD” shall mean the technical analysis and procedures that follow the selection of a Remedy for an Operable Unit and result in a detailed set of plans, specifications or other suitable documentation for implementation of the Remedial Action.
- 2.1.38. “Remedial Investigation” or “RI” shall mean that investigation conducted in accordance with CERCLA, the NCP and relevant Guidance. The RI serves as a mechanism for collecting data for site and waste characterization and conducting treatability studies as necessary to evaluate performance and cost of the treatment technologies. The data gathered during the RI will also be used to conduct a baseline risk assessment, including characterization of risk of harm to human health and the environment; to perform a FS(s); to support the evaluation of natural resources damaged by the Release(s) or threatened Release(s) of Hazardous Substances; and to support the design of a selected Remedy. The Army shall conduct and prepare all RIs in a manner to support the intent and objectives of Section VIII, *Statutory Compliance/RCRA-CERCLA Integration*, of this Agreement.
- 2.1.39. “Remedy” or “Remedial Action” or “RA” shall have the same meaning as provided in CERCLA Section 101(24), 42 U.S.C. § 9601(24), and the NCP, and may include one or more OUs.
- 2.1.40. “Removal” or “Removal Action” shall have the same meaning as provided in CERCLA Section 101(23), 42 U.S.C. § 9601(23), and the NCP.
- 2.1.41. “Response Action(s)” shall mean all Removal Actions and Remedial Actions undertaken at the Site.
- 2.1.42. “Schedule” shall mean a timetable or plan that indicates the timing and sequence of Work to be performed, including the completion of RI/FS, RD and RA activities at the Site.
- 2.1.43. “Secondary Document” shall mean any document listed in Subsection 10.4 of this Agreement.
- 2.1.44. “Site” shall include all AOCs at SSC and any other areas where a Hazardous Substance, pollutant, or contaminant from SSC has been deposited, stored, disposed of, or placed, or has migrated or otherwise come to be located. The Site is a "facility" within the meaning of CERCLA Section 101(9), 42 U.S.C. § 9601(9), and the NCP. This definition of “Site” is not intended to include any off-Site facility to which Hazardous Substances or wastes are or were

intentionally transported from the Site by motor vehicle or vessel.

- 2.1.45. “Site Screening Areas” or “SSAs” shall mean those geographical areas that require preliminary screening under the Site Screening Process to determine whether they are Areas of Concern. SSAs identified as of the effective date of this Agreement are listed in Appendix C to this Agreement. SSAs that are agreed to by the Parties after the effective date of this Agreement in accordance with Subsection 9.5 of this Agreement shall be included in the Plan in accordance with Section XI, *Contents Of Plan*, and Section XII, *Budget Development And Amendment Of Plan*, of this Agreement. When the Parties agree, SSAs may expand or contract in size as information becomes available indicating the extent of contamination and the geographical area needed to be studied.
- 2.1.46. “Site Screening Process” or “SSP” refers to the mechanism described in Subsections 9.4 through 9.7 of this Agreement for evaluating whether identified SSAs are Areas of Concern.
- 2.1.47. “Soldier Systems Center” or “SSC” shall mean that property owned by the United States and operated by the Army in Natick, Massachusetts formerly known as the Natick Laboratory Army Research, D&E Center and now known as the Soldier Systems Center, consisting of approximately 78 acres and including all areas identified in the map attached as Appendix A to this Agreement.
- 2.1.48. “State” shall mean the Commonwealth of Massachusetts, its employees, agents, authorized representatives, successors and assigns. The Commonwealth of Massachusetts is not a Party to this Agreement.
- 2.1.49. “Target Dates” shall mean dates established for the completion and transmission of Secondary Documents. Target Dates are not subject to Dispute Resolution and they are not Milestones.
- 2.1.50. “To Be Considered” or “TBC” is any advisory, criteria or guidance developed by EPA, other Federal agency or the State that may be useful in developing CERCLA Remedies. TBCs shall be timely identified and provided as required by the NCP.
- 2.1.51. “Work” shall mean all activities or obligations the Army is required to perform under this Agreement and any amendments hereto, except those activities or obligations required by Section XXX, *Record Preservation*, of this Agreement.

III. PARTIES BOUND

3.1. The Parties to this Agreement are EPA and the Army, and this Agreement shall apply to and be binding upon EPA and the Army. The State and the United States Department of Defense have entered into a Department of Defense and State Memorandum of Agreement dated May 1, 1992, as amended. The State elected not to be a Party to this Agreement at the time the Agreement was negotiated and executed. However, consistent with CERCLA and the NCP, EPA and the Army have agreed to allow the State a participatory role in the Site remediation as described in this Agreement, and an opportunity to enter into the Agreement, should the State choose to, at a later date. Accordingly, the Parties intend that provisions in this Agreement that provide that the State “should”, “shall” or “will” perform a certain task to mean that the State may, at its option, perform the task. It is also recognized that since the State is not a Party to this Agreement, it has no rights or responsibilities that are established under this Agreement. Similarly, this Agreement does not establish in the State any rights as a third-party beneficiary. It is also recognized by the Parties that the State has rights and responsibilities under CERCLA that are separate and distinct from this Agreement.

3.2. The Army agrees to include the notices required by CERCLA Section 120(h), 42 U.S.C. § 9620(h), and 40 C.F.R. Part 373 in any contract for the sale or transfer of real property affected by this Agreement and shall notify EPA at least sixty (60) days prior to any such transfer. Transfer (sale or lease) of property affected by this Subsection shall not relieve the Army of its applicable obligations under this Agreement.

3.3. The Army shall notify EPA and the State of the identity and assigned tasks of each of its contractors performing Work under this Agreement upon their selection. The Army shall provide copies of this Agreement to all contractors performing any Work called for by this Agreement. Each Party shall be responsible for ensuring that its contractors comply with the terms and conditions of this Agreement.

3.4. This Section shall not be construed as an agreement to indemnify any person.

IV. PURPOSE

4.1. The general purposes of this Agreement are to:

- 4.1.1. ensure that the environmental impacts associated with past and present activities at the Site are thoroughly investigated and appropriate Remedial Action taken as necessary to protect public

- health, welfare and the environment;
- 4.1.2. establish a procedural framework and schedule for developing, implementing and monitoring appropriate Response Actions at the Site in accordance with CERCLA/SARA, the NCP, Superfund Guidance and policy, RCRA, RCRA Guidance and policy; and,
- 4.1.3. facilitate cooperation, exchange of information and participation of the Parties in such actions.
- 4.2. Specifically, the purposes of this Agreement are to:
 - 4.2.1. Identify Interim Remedial Action and final Remedial Action alternatives which are appropriate at the Site prior to the implementation of final Remedial Action(s) for the Site. IRA alternatives shall be identified and proposed to the Parties as early as possible prior to formal proposal of IRAs to EPA pursuant to CERCLA/SARA. This process is designed to promote cooperation among the Parties in identifying IRA alternatives prior to selection of final IRAs.
 - 4.2.2. Establish requirements for the performance of a Site Screening Process and 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 and threatened Release of Hazardous Substances, pollutants or contaminants 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 Remedial Actions(s) to prevent, mitigate, or abate the Release or threatened Release of Hazardous Substances, pollutants or contaminants at the Site in accordance with CERCLA/SARA and the NCP.
 - 4.2.3. 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 cleanup of Hazardous Substances, pollutants or contaminants mandated by CERCLA/SARA and the NCP.
 - 4.2.4. Implement the selected Interim and final Remedial Actions(s) in accordance with CERCLA and meet the requirements of Section 120(e)(2) of CERCLA for an interagency agreement between EPA and the Army.
 - 4.2.5. Assure compliance, through this Agreement, with RCRA and other Federal and State hazardous waste laws and regulations for matters covered herein.
 - 4.2.6. Coordinate Response Actions at the Site with the mission and support activities at the Soldier Systems Center.

- 4.2.7. Expedite the cleanup process to the extent consistent with protection of human health and the environment.
- 4.2.8. Provide for operation and maintenance of any RA selected and implemented pursuant to this Agreement.

V. SCOPE OF AGREEMENT

5.1. This Agreement is entered into by the Parties to enable the Army to meet the provisions of CERCLA, 42 U.S.C. §§ 9601 et seq.

5.2. This Agreement is intended to cover the investigation, development, selection, and implementation of Response Actions for all Releases or threatened Releases of Hazardous Substances, contaminants, or pollutants at the Site. This Agreement covers all phases of remediation for these Releases, bringing together into one agreement the requirements for remediation as well as the system the Parties will use to determine and accomplish remediation, ensuring the necessary and proper level of participation by each Party. Although all such Releases at the Site may not be known as of the effective date of this Agreement, this Agreement establishes the system for dealing with undiscovered Releases. To accomplish remediation of such undiscovered Releases, the Parties will establish Schedules and Deadlines or Milestones as necessary and as information becomes available, and shall, if required, amend this Agreement as needed.

5.3. This Agreement is not intended to limit any requirements under RCRA or any other law or regulation to obtain permits, and is not intended to affect the treatment, storage, or disposal by SSC of hazardous wastes. This Agreement is not intended to encompass responses to Releases of Hazardous Substances from ongoing operations unless those Releases occur in conjunction with CERCLA Removal Actions or Remedial Actions pursuant to this Agreement.

5.4. The scope of this Agreement extends to the entire National Priorities List (NPL) Site. The Site cannot be removed from the NPL unless it is determined, in accordance with CERCLA, the NCP, and this Agreement, that the Army has implemented all appropriate Response Actions, and that the Site no longer poses a threat to human health or the environment. All Response Actions at the Site shall occur in discrete locations called Site Screening Areas, Areas of Concern or Operable Units identified at the Site pursuant to this Agreement.

5.5. Any Response Action in progress on the effective date of this Agreement shall become subject to the obligations and procedures of this Agreement.

5.6. The Parties agree to use their best efforts to expedite the initiation of Response Actions at the Site and to carry out all activities under this Agreement so as

to protect the public health and welfare and the environment. Upon request, the Parties agree to provide applicable Guidance or reasonable assistance in obtaining such Guidance relevant to the implementation of this Agreement.

5.7. The Army agrees that it shall develop, implement and report upon a Remedial Investigation or Remedial Investigations for the Areas of Concern or Operable Units at the Site where required in accordance with Section IX, *Work To Be Performed*, of this Agreement, CERCLA, the NCP, and applicable EPA Guidance. The RI documents shall be subject to the review and comment procedures described in Section X, *Consultation*, of this Agreement. The RI(s) shall be conducted in accordance with the requirements and Schedules set forth in the Plan and shall meet the purposes set forth in Section IV, *Purpose*, of this Agreement.

5.8. The Army agrees that it shall develop, implement and report upon a Feasibility Study or Feasibility Studies for the Areas of Concern or Operable Units at the Site where required in accordance with Section IX, *Work To Be Performed*, of this Agreement, CERCLA, the NCP, and applicable EPA Guidance. The FS documents shall be subject to the review and comment procedures described in Section X, *Consultation*, of this Agreement. The FS(s) shall be conducted in accordance with the requirements and Schedules set forth in the Plan and shall meet the purposes set forth in Section IV, *Purpose*, of this Agreement.

5.9. The Army agrees that it shall perform Remedial Design(s), Remedial Action(s) and Operation and Maintenance to maintain the effectiveness of Response Actions at the Areas of Concern or Operable Units at the Site in accordance with CERCLA, RCRA, and applicable regulations thereof for matters covered herein.

VI. FINDINGS OF FACT

6.1. For purposes of this Agreement, the following constitutes a summary of the findings upon which this Agreement is based. Nothing contained in this Agreement shall constitute an admission of any liability by the Army for any matters contained herein nor shall anything in this Agreement constitute an admission by the Army with respect to any finding of fact or any legal determination noted herein.

6.2. The Site was placed on the NPL on May 31, 1994, 59 Fed. Reg. 27989.

6.3. SSC consists of approximately 78 acres of real property and the structures thereon. As of the effective date of this Agreement, it is owned by the United States and operated by the Army. SSC occupies a small peninsula on the south pond of Lake Cochituate in Natick, Massachusetts. The land uses surrounding the Facility include residential, commercial and light industrial uses. The Town of Natick Springvale Municipal Water Supply Well Field is located approximately 2500 feet northwest of the Facility. About 37,000 people obtain their drinking water from wells within 4 miles of the Facility.

6.4. The Army purchased the SSC property from the Metropolitan District Commission in 1949, after a special site selection committee appointed by the Secretary of Defense selected it from 340 possible locations in 40 states for the development of a research facility. At the time of the purchase, the property was primarily used as a forested recreational area, but it also included a gravel pit. Approval for construction of SSC was granted in October 1949, and construction was completed in October 1954. Since 1954, the Facility has been a permanent Army installation.

6.5. SSC's mission since 1954 has been to conduct research and development activities (including laboratory and storage activities) in the areas of food engineering, food science, aero-mechanical engineering, and clothing, material and equipment engineering. Present and past operations at SSC have included quarrying; indoor and outdoor storage of bulk items (e.g., scrap metal, vehicles), wastes, petroleum, solvents, antifreeze, pesticides and Freon 113; warehouse operations (shipping and receiving); laboratory research activities including the testing of petroleum, oil and lubricant (POL) pumping equipment, refrigeration units and various types of fuel in engines; clothing and textile research, including fabric treatment; dry cleaning; drop-testing; waste incineration; and garage operations including spray painting, vehicle maintenance, insect and rodent control, metal parts and brush washing and cleaning, battery charging, silk screening and rubber adhesive thinning.

6.6. During its operation of SSC, the Army has used a variety of substances there, including the volatile organic compounds (VOCs) tetrachloroethene (PCE), trichloroethene (TCE), carbon disulfide, benzene, chloroform, and acetone; standard laboratory chemicals; mineral spirits/turpentine; paints; inks; lubricants; gasoline; tetraethyl lead, a gasoline additive; pesticides; and metal dusts. In addition, radioactive materials were used for food irradiation in accordance with a Nuclear Regulatory Commission license.

6.7. In 1992, the Army completed an Expanded Site Inspection that confirmed the presence of TCE in the groundwater at the Site. It began a Phase I Remedial Investigation in 1993 to determine the nature and extent of soil and groundwater contamination at the T-25 Area, and completed the first version of the Site groundwater model in 1996. Also in 1996, the Army issued the Final Phase I RI report for the T-25 Area and conducted field work for the Phase II RI. In 1998, it issued the Final T-25 Area Phase II RI report and installed an on-site groundwater extraction and treatment system for the Treatability Study component of a Focused Feasibility Study. In September 2001, the Army issued a Record of Decision for the groundwater Operable Unit only at the T-25 Area. As of the effective date of this Agreement, it is operating the extraction and treatment system and monitoring the groundwater in the T-25 Area. A pilot study work plan concerning this Site will be completed in 2006/2007. This plan will evaluate the extraction of groundwater from the Buildings 22 and 36 and Buildings 63, 2 and 45 plumes for treatment at the T-25

treatment plant. It is expected that the Army will document human and ecological risks concerning soil media at the site in the future.

6.8. In January 1993, the Army issued the Master Environmental Plan (MEP) for the U.S. Army Natick Research, Development and Engineering Center, Natick, MA. The MEP identifies potential study areas that might need Remedial Actions. In addition to the MEP, the Army has also issued the Installation Action Plan (IAP) U.S. Army Soldier Systems Command, which describes the Army's environmental restoration progress at SSC. The IAP is updated annually.

6.9. The Former Proposed Gymnasium Area is a 1.6-acre area situated on a filled-in marsh located in the eastern portion of the Facility, between the main entrance gate of the installation and Lake Cochituate. A helicopter landing pad was operated for a short time in the early 1970s on what is now a paved parking lot located to the west of the area. The storage of empty POL bladders has also been reported at this location. Presently, there is a french drain located in the western portion of the area that drains surface water directly into the lake. The Army began an RI at the Former Proposed Gymnasium Area in 1997 to determine the nature and extent of groundwater and soil contamination there. It completed the RI field work in 1998 and issued a draft RI report in January 1999. Contaminants of concern are chlorinated solvents, heavy metals, and POLs. Groundwater monitoring is currently being conducted in the area as part of the site-wide groundwater monitoring program. A Removal Action consisting of the removal and off-site disposal of approximately 800 cubic yards of contaminated soil was completed in August 2002. One (1) additional groundwater monitoring well was installed downgradient of the Removal Action area in December 2003. A two-year period of post-Removal Action confirmatory groundwater sampling was started in January 2004. Following satisfactory completion of the post-Removal Action groundwater monitoring, a final RI and ROD will be prepared.

6.10. The Army began an RI of the groundwater contamination at the Army Supply Well in 1997. Field work was finished in 1998, and the Army issued a draft RI in March 1999. The supply wells are approximately 50 feet deep, located on a peninsula on the south end of the post, exiting out into Lake Cochituate. Two (2) 300-gallon-per-minute submersible pumps formerly supplied well water to Building No. 63 (Pump House). At Building No. 63, the water was chlorinated and pumped into the distribution system for public consumption. SSC now uses town drinking water. Contaminants of concern at the Army Supply Well are chlorinated solvents. SSC installed ten (10) additional groundwater monitoring wells during the autumn of 2003 in the area southeast and southwest of Building 2 and 45 to delineate the extent of the plume. Based on initial results of groundwater sampling of these ten additional wells in January 2004, a network of passive vapor diffusion samplers was installed in June 2004. Vapor diffusion sampling locations included Lake Cochituate south pond, southwest of Building 45 and east of Building 2 in Pegan Cove. Groundwater monitoring is currently being conducted in the area as part of the Site-wide groundwater monitoring program. A pilot study work plan concerning this plume

will be completed in 2006/2007. It is likely that groundwater will be extracted from the plume and directed to the existing T-25 area groundwater treatment system. Source area reduction measures via enhanced in-situ bioremediation may also be employed at the Site in the future

6.11. The Army began a Site Investigation at the Boiler Plant Area (Building 19) in 1998. Soil, sediment and groundwater samples have been taken, and an Action Memorandum for excavation was signed in 1999. The site consists of a boiler blowdown tank and an associated leaching field connected to Building 19 basement floor drains. In addition, a sink from the former pesticide mixing area in the Building 19 basement may have been connected to the boiler blowdown tank. Contaminants of concern are petroleum, polychlorinated biphenyls (PCBs) and pesticides in both soil and groundwater. A Removal Action was completed in 2001 consisting of removal of the blowdown tank leaching field and a quantity of contaminated soil. Post-IRA confirmatory groundwater monitoring is currently being conducted in the area as part of the Site-wide groundwater monitoring program. The SI Report will be completed following two years of confirmatory groundwater monitoring.

6.12. During the Boiler Plant Area SI, a groundwater plume was discovered associated with Building 22, which was a former Hazardous Materials Issue Building from the 1950s to 1989. Soil, sediment and groundwater have been sampled, and a site investigation was completed in 2000. The primary contaminant of concern in groundwater is tetrachloroethene (PCE). An RI was initiated in 2000 to delineate the contamination. Additional groundwater monitoring wells and direct-push groundwater sampling indicated that a PCE plume extends both to the south and to the west of a groundwater divide located beneath Building 36. Groundwater containing PCE discharges to Lake Cochituate to the west of Building 36 as well as to the south of Building 22 into the Boiler Plant cove. Groundwater sampling results indicate up to 600 parts per billion of PCE. A draft RI report was submitted to EPA in 2004. A draft Feasibility Study Report was submitted to EPA in October 2004. Additional soil sampling was completed in 2004 and a Draft Supplemental Remedial Investigation Report was submitted to EPA in October 2005. A pilot study work plan for this plume will be completed in 2006/2007. It is likely that groundwater will be extracted from the plume and directed to the existing T-25 area groundwater treatment system. Source area reduction measures via enhanced in-situ bioremediation may also be employed at the Site in the future.

6.13. Main Stormwater Outfall sediments were discovered in 1998 to contain PCBs. This outfall drains an area that includes the location of a transformer that exploded in 1980, releasing an undetermined quantity of PCBs. PCB-contaminated soil around the transformer was remediated under contract to the Army Corps of Engineers in 1992. Oil/water separators were installed at all stormwater outfalls in 1997 to reduce the potential for future Releases from the outfall. A screening-level assessment has indicated no risk to human health from exposure to sediment and surface water. A Tier II ecological risk assessment (ERA) was completed in 2000. A Tier III ERA was completed in 2004. The Tier III ERA found potential incremental risk to

mammals and fish. Chemicals of concern (COCs) identified as the key potential risk drivers, include polychlorinated biphenyl (PCBs), cadmium, and zinc. A draft sediment risk management technical memorandum was submitted to EPA in December 2004. Additional fishing surveys are in progress to supplement the human health risk assessment data in the draft sediment risk technical memorandum. Response Actions are being coordinated at the three sediment-related sites.

6.14. T-25 Area Stormwater Outfall drains the T-25 area, a portion of which was used to store PAH compounds and pesticides in drums. The deposited sediment plume from the outfall was discovered to contain pesticides and polycyclic aromatic hydrocarbons (PAHs) over an area approximately 100 feet wide and extending from 50 to approximately 250 feet from the shore into Lake Cochituate. Oil/water separators were installed at all stormwater outfalls in 1997 to reduce the potential for future Releases from the outfall. A screening-level assessment has indicated no risk to human health from exposure to sediment and surface water. A Tier II ERA was completed in 2000. A Tier III ERA was completed in 2004. The Tier III ERA found potential incremental risk (mammals and fish), and on the COCs identified as the key potential risk drivers, including PCBs, cadmium, and zinc. A human health risk assessment was requested by EPA and is in progress as part of a sediment risk management memorandum to be completed in the autumn of 2004. Response Actions are being coordinated at the three sediment-related sites.

6.15. Building 2 & 45 Parking Lot Outfall drains the parking area south of the two named buildings at SSC into Lake Cochituate. The deposited sediment plume from this outfall was determined to contain PCBs and PAH compounds, and covers an area between 50 feet and approximately 100 feet from the shore, and is approximately 50 feet wide. Oil/water separators were installed at all stormwater outfalls in 1997 to reduce the potential for future Releases from the outfall. A screening-level assessment has indicated no risk to human health from exposure to sediment and surface water. A Tier II ERA was completed in 2000. A Tier III ERA was completed in 2004. The Tier III ERA found potential incremental risk (mammals and fish), and on the COCs identified as the key potential risk drivers, including PCBs, cadmium, and zinc. A human health risk assessment was requested by EPA and is in progress as part of a sediment risk management memorandum to be completed in the autumn of 2004. Response Actions are being coordinated at the three sediment-related sites.

6.16. The Army has performed several Interim Remedial Actions, including the 1991 removal of a 1,000-gallon waste oil tank and associated contaminated soils and the 1992 removal of PCB-contaminated soil from an exploded transformer. Also, in 1998, the Army undertook a Removal Action in the Storage Area within the T-25 Area to remove pesticide-contaminated soils. A final Removal Action Report was completed in February 1999.

6.17. Numerous studies and investigations have been carried out in order to detect and characterize the extent and effects of contamination at the Site. These studies

include the following:

Section	Title	Status	Date
6.17.1.	Analysis of Existing Facilities/Environmental Assessment Report, U.S. Army Natick Research and Development Command, Natick, Massachusetts		11/1/1978
6.17.2.	Installation Assessment of U.S. Army Natick Research and Development Command, Report # 170		5/1/1980
6.17.3.	Phase II Petrix Gas Survey conducted at U.S. Army Natick Research, Development and Engineering Center (NRDEC)		4/1/1990
6.17.4.	Final Report Master Environmental Plan for the U.S. Army Natick Research, Development and Engineering Center (NRDEC)	Final	1/1/1993
6.17.5.	Interim Remedial Action Study, Remedial Investigation/Feasibility Study (RI/FS) for T-25 Area at the U.S. Army Natick Research, Development, and Engineering Center (NRDEC), Natick, Massachusetts		3/23/1993
6.17.6.	EPA Final Hazard Ranking System (HRS), U.S. Army Natick Research, Development and Engineering Center (NRDEC)		5/10/1993
6.17.7.	Draft Report, Assessment of Location-Specific Applicable or Relevant and Appropriate Requirements (ARARS) for the U.S. Army Natick Research, Development and Engineering Center (NRDEC), Natick, Massachusetts	Draft	6/15/1993
6.17.8.	Draft Feasibility Study Report, T-25 Area at the U.S. Army Natick Research, Development and Engineering Center (NRDEC), Natick, Massachusetts	Draft	7/1/1994
6.17.9.	Agency for Toxic Substances and Disease Registry, Department of Health and Human Services, Public Health Service Site Visit Summary for the U.S. Army Natick Research, Development and Engineering Center (NRDEC), Natick, Massachusetts		9/1/1994
6.17.10.	Draft Remedial Investigation (RI) Addendum T-25 Area and Water Supply Wells at the U.S. Army Natick Research, Development and Engineering Center (NRDEC)	Draft	9/1/1994
6.17.11.	Draft Geophysical Investigation, Natick Research and Development Engineering Center (NRDEC), Natick, Massachusetts	Draft	1/1/1995
6.17.12.	Prepare Ground Water Model for Natick Research and Development and Engineering Center (NRDEC), Draft Technical Plan		3/10/1995
6.17.13.	Draft Work Plan Remedial Investigation/Feasibility Study (RI/FS) and Interim Remedial Alternatives (IRA) Study and Design for the T-25 Area at the U.S. Army Natick Research, Development and Engineering Center (NRDEC)	Draft	3/1/1995

6.17.14.	Draft Stepped Rate Aquifer Test Design, T-25 Area at the U.S. Army Soldier Systems Command (SSCOM), Natick, Massachusetts	Draft	3/1/1996
6.17.15.	Final Health and Safety Plan, Remedial Investigation/Feasibility Study (RI/FS) for T-25 Area at U.S. Army Natick Research, Development and Engineering Center (NRDEC), Natick, Massachusetts	Final	6/1/1996
6.17.16.	Final Work Plan - Phase II Remedial Investigation (RI) for T-25 Area at the U.S. Army Soldier Systems Command (SSCOM) Natick, Massachusetts	Final	6/1/1996
6.17.17.	Final Quality Assurance Project Plan - Phase II Remedial Investigation (RI) for T-25 Area at the U.S. Army Soldier Systems Command (SSCOM) Natick, Massachusetts - Volume I of II	Final	6/1/1996
6.17.18.	Final Quality Assurance Project Plan - Phase II Remedial Investigation (RI) for T-25 Area at the U.S. Army Soldier Systems Command (SSCOM) Natick, Massachusetts - Volume II of II	Final	6/1/1996
6.17.19.	Final Quality Assurance Project Plan Remedial Investigation/Feasibility Study (RI/FS) and Interim Remedial Alternatives (IRA) Study and Design for T-25 Area at the U.S. Army Natick Research, Development and Engineering Center (NRDEC), Natick, Massachusetts	Final	7/1/1996
6.17.20.	Draft Final Community Relations Plan - U.S. Army Soldier Systems Command (SSCOM) Natick, Massachusetts	Draft	7/1/1996
6.17.21.	Draft Final Letter Report Survey of Local Properties - Remedial Investigation/Feasibility Study (RI/FS) for T-25 Area at the U.S. Army Natick Research, Development and Engineering Center (NRDEC), Natick, Massachusetts	Draft	7/1/1996
6.17.22.	Phase I Final Work Plan - Remedial Investigation/Feasibility Study (RI/FS) and Interim Remedial Alternatives (IRA) Study and Design for T-25 Area at the U.S. Army Natick Research, Development and Engineering Center (NRDEC), Natick Massachusetts		8/1/1996
6.17.23.	Final Phase I Remedial Investigation (RI) Report Volume I of III Sections 1.0 through 8.0 - T-25 Area at the U.S. Army Natick Research, Development and Engineering Center (NRDEC), Natick, Massachusetts	Final	8/1/1996
6.17.24.	Final Phase I Remedial Investigation (RI) Report Volume II of III Appendices - T-25 Area at the U.S. Army Natick Research, Development and Engineering Center (NRDEC), Natick, Massachusetts	Final	8/1/1996
6.17.25.	Final Phase I Remedial Investigation (RI) Report Volume III of III Appendices - T-25 Area at the U.S. Army Natick Research, Development and Engineering Center (NRDEC),	Final	8/1/1996

	Natick, Massachusetts		
6.17.26.	Draft Final Quarterly Ground Water Monitoring Report (Summer and Fall 1995) - T-25 Area, Water Supply Well Area, and Former Proposed Gymnasium Area at the U.S. Army Soldier Systems Command (SSCOM) Natick, Massachusetts	Draft	8/1/1996
6.17.27.	DRAFT Action Memorandum Storage Area, U.S. Army Soldier Systems Command (SSCOM) Natick, Massachusetts, Revision 1	Draft	11/1/1996
6.17.28.	Draft Quarterly Ground Water Monitoring Report (Winter 1996 and Spring 1996) - T-25 Area, Water Supply Well Area, and Former Proposed Gymnasium Area, and Boiler Plant Area at the U.S. Army Soldier Systems Command (SSCOM), Natick, Massachusetts	Draft	12/1/1996
6.17.29.	Phase II Field Investigation Data, Remedial Investigation (RI) of the T-25 Area at the U.S. Army Soldier Systems Command (SSCOM), Natick, Massachusetts		1/1/1997
6.17.30.	Draft Quality Assurance Project Plan-Addendum, Sections 1.0 - 15.0, U.S. Army Soldier Systems Command (SSCOM), Natick, Massachusetts	Draft	5/1/1997
6.17.31.	Draft Health and Safety Plan-Addendum Former Proposed Gymnasium Site, SSCOM Water Supply Wells Remedial Investigation (RI) Data Item A003	Draft	5/1/1997
6.17.32.	Draft Final Work Plan, Former Proposed Gymnasium Site, SSCOM Water Supply Wells Remedial Investigation (RI) Data Item A003	Draft	6/1/1997
6.17.33.	Final Report Ground Water Model for Soldier Systems Command (SSCOM), Natick, Massachusetts	Final	6/1/1997
6.17.34.	Draft Quarterly Ground Water Monitoring Report (Summer 1996, Fall 1996 and Winter 1996\1997) - T-25 Area, Water Supply Well Area, and Former Proposed Gymnasium Area, and Boiler Plant Area at the U.S. Army Soldier Systems Command (SSCOM), Natick, Massachusetts	Draft	6/1/1997
6.17.35.	Agency for Toxic Substance and Disease Registry Public Health Assessment for Natick Laboratory Army Research a/k/a U.S. Army Soldier Systems Command (SSCOM), Natick, Massachusetts		7/1/1997
6.17.36.	Final Site Safety and Health Plan for Storage Area Removal Action T-25 Area, U.S. Army Soldier Systems Command (SSCOM), Natick, Massachusetts	Final	8/1/1997
6.17.37.	Final Removal Action Work Plan for Storage Area Removal Action T-25 Area, U.S. Army Soldier Systems Command (SSCOM), Natick, Massachusetts	Final	8/1/1997
6.17.38.	Final Treatability Study Work Plan - T-25 Area at the U.S. Army Soldier Systems Command (SSCOM), Natick,	Final	10/15/1997

	Massachusetts		
6.17.39.	Final Work Plan Former Proposed Gymnasium Site, Soldier Systems Command (SSCOM) Water Supply Wells Remedial Investigation (RI) Data Item A003	Final	12/1/1997
6.17.40.	Draft Final Quarterly Groundwater Sampling Report Event 14 (July 1997) at the U.S. Army Soldier Systems Command (SSCOM), Natick, Massachusetts	Draft	3/1/1998
6.17.41.	Public Health Assessment for the U.S. Army Soldier Systems Command (SSCOM), Natick, Massachusetts		3/1/1998
6.17.42.	Health Consultation for the U.S. Army Soldier Systems Command (SSCOM), Natick, Massachusetts		3/1/1998
6.17.43.	Draft Technical Work Plan, Groundwater Modeling at the U.S. Army Soldier Systems Command (SSCOM), Natick, Massachusetts	Draft	4/1/1998
6.17.44.	Draft Final Quarterly Groundwater Sampling Report Event 15 (January 1997) at the U.S. Army Soldier Systems Command (SSCOM), Natick, Massachusetts	Draft	6/1/1998
6.17.45.	Draft Work Plan for Site Investigation for Boiler Plant, Former Hazardous Materials Storage Building, Former Piggery, and Building T-23, U.S. Army Environmental Center, Aberdeen Proving Grounds, Maryland	Draft	6/1/1998
6.17.46.	Storm Water Sampling Report, Contract No. DAAK60-97-P-4847, prepared for Soldier Systems Command (SSCOM)		8/1/1998
6.17.47.	Draft Final Work Plan for Site Investigation for Boiler Plant, Former Hazardous Materials Storage Building, Former Piggery, and Building T-23, U.S. Army Soldier Systems Command (SSCOM), Natick, Massachusetts	Draft	9/1/1998
6.17.48.	Draft Final Quarterly Groundwater Sampling Report Event 16 (April 1998) at the U.S. Army Soldier Systems Center (SSC), Natick, Massachusetts	Draft	10/1/1998
6.17.49.	Tier II Ecological Risk Assessment Work Plan, T-25 Area at the U.S. Army Soldier Systems Center (SSC), Natick, Massachusetts		11/1/1998
6.17.50.	Draft Addendum to Quality Assurance Project Plan, Tier II Ecological Risk Assessment and Treatability Study Operation and Maintenance for T-25 Area at the U.S. Army Soldier Systems Center (SSC), Natick, Massachusetts	Draft	11/1/1998
6.17.51.	Final Phase II Remedial Investigation (RI) Report Volume I sections 1.0 through 4.0 - T-25 Area at the U.S. Army Soldier Systems Command (SSCOM), Natick, Massachusetts	Final	12/1/1998
6.17.52.	Final Phase II Remedial Investigation (RI) Report Volume II sections 5.0 through 9.0 - T-25 Area at the U.S. Army Soldier Systems Command (SSCOM), Natick, Massachusetts	Final	12/1/1998

6.17.53.	Draft Remedial Investigation Report (RI), Former Proposed Gymnasium Site, Data Item A013, Volume I of II-Text, Figures And Tables	Draft	1/1/1999
6.17.54.	Draft Remedial Investigation Report (RI), Former Proposed Gymnasium Site, Data Item A013, Volume II of II-Appendices A through V	Draft	1/1/1999
6.17.55.	Final Removal Action Report, Storage Area Removal Action T-25 Area at the U.S. Army Soldier Systems Command (SSCOM), Natick, Massachusetts	Final	2/1/1999
6.17.56.	Draft Final Quarterly Groundwater Sampling Report Event 17 (August 1998) U.S. Army Soldier Systems Center (SSC), Natick, Massachusetts	Draft	2/1/1999
6.17.57.	Draft Remedial Investigation (RI) Report Soldier Systems Center (SSC) Water Supply Wells Site, Volume I of II: Text, Tables & Figures	Draft	3/1/1999
6.17.58.	Draft Remedial Investigation (RI) Report Soldier Systems Center (SSC) Water Supply Wells Site, Volume II of II: Appendices A through R	Draft	3/1/1999
6.17.59.	Draft Final Quarterly Groundwater Sampling Report Event 18 (December 1998) U.S. Army Soldier Systems Center (SSC), Natick, Massachusetts	Draft	5/1/1999
6.17.60.	Draft Final Quarterly Groundwater Sampling Report Event 19 (March 1999) U.S. Army Soldier Systems Center (SSC), Natick, Massachusetts	Draft	6/1/1999
6.17.61.	Final Focused Feasibility Study/Treatability Study, T-25 Area at the U.S. Army Soldier Systems Center (SSC), Natick, Massachusetts	Final	9/1/1999
6.17.62.	Transcript of Public Hearing, Re: U.S. Army Soldier Systems Center (SSC), Natick, Massachusetts Proposed Plan to Clean Up Groundwater at the T-25 Area		9/23/1999
6.17.63.	Tier II Ecological Risk Assessment Work Plan, Main Storm water Outfall (MSO) Area, U.S. Army Soldier Systems Center (SSC), Natick, Massachusetts		10/1/1999
6.17.64.	Draft Final Quarterly Groundwater Sampling Report Event 20 (July 1999) U.S. Army Soldier Systems Center (SSC), Natick, Massachusetts	Draft	2/1/2000
6.17.65.	1999 Storm Water Sampling Report; U.S. Army Soldier Systems Center (SSC), Natick, Massachusetts	Final	1/1/2002
6.17.66.	Working Draft, Interim Technical Memorandum, T-25 Area Storm water Outfall, Tier II Ecological Risk Assessment, U.S. Army Soldier Systems Center (SSC)		4/1/2000
6.17.67.	Draft Preliminary Phase II Site Investigation Report, Boiler Plant Site, Soldier Systems Center (SSC), Natick, Massachusetts, Data Item A003	Draft	5/1/2000
6.17.68.	Draft, Quarterly Groundwater Monitoring Report Event 21	Draft	6/1/2000

	(October 1999), Soldier Systems Center (SSC), Natick, Massachusetts		
6.17.69.	Draft, T-25 Area Tier II Ecological Risk Assessment Report for the U.S. Army Soldier Systems Center (SSC), Natick, Massachusetts	Draft	6/1/2000
6.17.70.	Draft Technical Memorandum, Building 22, Soldier Systems Center (SSC), Natick, Massachusetts	Draft	9/1/2000
6.17.71.	Draft Work Plan, Building 22 Remedial Investigation (RI), Soldier Systems Center (SSC), Natick, Massachusetts	Draft	9/1/2000
6.17.72.	Water Resources Investigation Report, Pond-Aquifer Interaction at South Pond of Lake Cochituate, Natick, Massachusetts, prepared in cooperation with the U.S. Environmental Protection Agency (USEPA) and the U.S. Army		1/1/2001
6.17.73.	Draft Final, Revised Quality Assurance Project Plan, Soldier Systems Center (SSC), Natick, Massachusetts, Volume I Sections 1.0-14.0 and Appendices A through G	Draft	1/1/2001
6.17.74.	Draft, Final Revised Quality Assurance Project Plan, Soldier Systems Center (SSC), Natick, Massachusetts, Volume II Appendix H Laboratory Quality Assurance Plan and Operating Procedures (Severn Trent Laboratory, Sparks, Maryland)	Draft	1/1/2001
6.17.75.	Draft, Final Revised Quality Assurance Project Plan, Soldier Systems Center (SSC), Natick, Massachusetts, Volume III Appendix I Laboratory Quality Assurance Plan and Standard Operating Procedures (Datachem Laboratory, Salt Lake City, Utah)	Draft	1/1/2001
6.17.76.	Draft Final, Quarterly Groundwater Monitoring Report Event 26 (June 2001), Soldier Systems Center (SSC), Natick, Massachusetts	Draft	2/1/2001
6.17.77.	Draft Final Quarterly Groundwater Monitoring Report, Event 22 (January 2000) U.S. Army Soldier Systems Center (SSC), Natick, Massachusetts	Draft	3/1/2001
6.17.78.	Draft Final Quarterly Groundwater Monitoring Report, Event 23 (May 2000), Soldier Systems Center (SSC), Natick, Massachusetts	Draft	3/1/2001
6.17.79.	Record of Decision, T-25 Area Ground Water (Operable Unit 1), U.S. Army Soldier Systems Center (SSC), Natick, Massachusetts		4/1/2001
6.17.80.	Draft Report Groundwater Flow and Transport Modeling Results for the T-25 Area at Soldier Systems Center (SSC), Natick, Massachusetts	Draft	6/7/2001
6.17.81.	Draft Tier III Ecological Risk Assessment Work Plan, U.S. Army Soldier Systems Center (SSC), Natick, Massachusetts	Draft	8/1/2001
6.17.82.	Draft Quality Assurance Project Plan Addendum, Tier III	Draft	8/1/2001

	Ecological Risk Assessment, U.S. Army Soldier Systems Center (SSC), Natick, Massachusetts		
6.17.83.	Draft Letter Report Historic Outfalls, U.S. Army Soldier Systems Center (SSC), Natick, Massachusetts	Draft	8/1/2001
6.17.84.	Draft Main Storm Water Outfall (MSO) Tier II Ecological Risk Assessment Report for the U.S. Army Soldier Systems Center (SSC), Natick, Massachusetts	Draft	8/1/2001
6.17.85.	Draft Feasibility Study (FS) Report, Former Proposed Gymnasium Site	Draft	8/1/2001
6.17.86.	Draft Final Remedial Investigation (RI) Report, Soldier Systems Center (SSC) Water Supply Wells Site, Volume I of II - Text, Figures and Tables	Draft	8/1/2001
6.17.87.	Draft Final Remedial Investigation (RI) Report, Soldier Systems Center (SSC) Water Supply Wells Site, Volume II of II - Appendices A through R	Draft	8/1/2001
6.17.88.	Final Work Plan, Buildings 22 and 36 Remedial Investigation (RI), Soldier Systems Center (SSC), Natick, Massachusetts	Final	8/1/2001
6.17.89.	Final Revised Quality Assurance Project Plan, U.S. Army Soldier Systems Center (SSC), Natick, Massachusetts, Volume I, Sections 1.0-14.0 and Appendices A through G	Final	8/1/2001
6.17.90.	Draft Quarterly Groundwater Monitoring Report, Event 24 (October 2000), Soldier Systems Center (SSC)	Draft	8/1/2001
6.17.91.	Draft Final Quarterly Groundwater Monitoring Report, Event 24 (October 2000), Soldier Systems Center (SSC)	Draft	9/1/2001
6.17.92.	NPDES Permit Exclusion - Chemical Data, July 1, 2001 to September 30, 2001, U.S. Army Soldier Systems Center (SSC), Natick, Massachusetts		10/1/2001
6.17.93.	Draft Storm Water Sampling Report, U.S. Army Soldier Systems Center (SSC), Natick, Massachusetts	Draft	10/1/2001
6.17.94.	Final, T-25 Area Tier II Ecological Risk Assessment Report, U.S. Army Soldier Systems Center (SSC), Natick, Massachusetts	Final	12/1/2001
6.17.95.	Final Report, Development and Application of a Calibrated Ground Water Flow and Transport Model for the T-25 Area at Soldier Systems Center (SSC), Natick, Massachusetts	Final	2/3/2002
6.17.96.	Draft Final, Quarterly Groundwater Monitoring Report, Event 25 (March 2001), Soldier Systems Center (SSC), Natick, Massachusetts	Draft	2/1/2002
6.17.97.	Draft Revised Risk Assessment Approach Technical Memorandum, Soldier Systems Center (SSC), Natick, Massachusetts	Draft	6/1/2002
6.17.98.	Draft Final Quarterly Groundwater Monitoring Report, Event 27 (August 2001), Soldier Systems Center (SSC), Natick, Massachusetts	Draft	6/1/2002

6.17.99.	Letter Report titled Natick Tier III Fish Data - Human Health Screening Comparisons prepared by ICF Consulting, Inc., 18 July 2002		7/18/2002
6.17.100.	Interim Technical Memorandum, Tier III Ecological Risk Assessment, U.S. Army Soldier Systems Center (SSC)		7/1/2002
6.17.101.	Final Draft, Storm water Sampling Report 2001 Sampling Event, U.S. Army Soldier Systems Center (SSC), Natick, Massachusetts August 2002	Final	8/1/2002
6.17.102.	Final Tier III Ecological Risk Assessment Work Plan, U.S. Army Soldier Systems Center (SSC), Natick, Massachusetts August 2002	Final	8/1/2002
6.17.103.	Final Quality Assurance Project Plan Addendum, Tier III Ecological Risk Assessment, U.S. Army Soldier Systems Center (SSC), Natick, Massachusetts August 2002	Final	8/1/2002
6.17.104.	Final Letter Report, Historic Outfalls, U.S. Army Soldier Systems Center (SSC), Natick, Massachusetts August 2002	Final	8/1/2002
6.17.105.	Final Main Stormwater Outfall (MSO), Tier II Ecological Risk Assessment Report for the U.S. Army Soldier Systems Center (SSC), Natick, Massachusetts August 2002	Final	8/1/2002
6.17.106.	Draft, Quality Assurance Project Plan Addendum - Building 14 and Former Building 13 Site Investigation/Remedial Investigation and Feasibility Study, U.S. Army Soldier Systems Command (SSC), Natick, Massachusetts September 2002	Draft	9/1/2002
6.17.107.	Draft Work Plan, Building 14 and Former Building 13 Site Investigation/Remedial Investigation and Feasibility Study	Draft	9/1/2002
6.17.108.	Draft Remedial Investigation Report, Buildings 22 and 36, Soldier Systems Center (SSC), Natick, Massachusetts, Volume I of II, Text, Figures, and Tables November 2002	Draft	11/1/2002
6.17.109.	Draft Remedial Investigation Report, Buildings 22 and 36, Soldier Systems Center (SSC), Natick, Massachusetts, Volume II of II, Appendices A through R November 2002	Draft	11/1/2002
6.17.110.	Final, Stormwater Sampling Report - 2001 Sampling Event, U.S. Army Soldier Systems Center (SSC), Natick, Massachusetts	Final	11/1/2002
6.17.111.	Draft Final, Quarterly Groundwater Monitoring Report, Event 29 (March 2002), Soldier Systems Center (SSC), Natick, Massachusetts December 2002	Draft	12/1/2002
6.17.112.	Augmentation of the Ground-Water Monitoring Well Network in the Vicinity of the T-25 Area, U.S. Army Soldier Systems Center (SSC), Natick, Massachusetts		1/1/2003
6.17.113.	Draft Final Quarterly Groundwater Sampling Report Event 28 (December 2001) U.S. Army Soldier Systems Center Natick, Massachusetts	Draft	8/13/2002
6.17.114.	Quality Assurance Project Plan Addendum Building 14 and	Final	3/1/2003

	Former Building 13 Site Investigation/Remedial Investigation and Feasibility Study, U.S. Army Soldier Systems Command (SSC) Natick, Massachusetts		
6.17.115.	Work Plan Building 14 and Former Building 13 Site Investigation/Remedial Investigation and Feasibility Study	Final	3/21/2003
6.17.116.	Draft Work Plan Buildings 2 and 45 Site Investigation Soldier Systems Center, Natick, Massachusetts	Draft	4/1/2003
6.17.117.	NPDES Permit Exclusion - Chemical Data January 1, 2003 to March 31, 2003	Final	4/15/2003
6.17.118.	Draft Final Quarterly Groundwater Sampling Report Event 30 (June 2002) U.S. Army Soldier Systems Center Natick, Massachusetts	Draft	5/9/2003
6.17.119.	Draft Final Remedial Investigation Report Buildings 22 and 36, U.S. Army Soldier Systems Center Natick, Massachusetts Volume 1 of 2	Draft	6/20/2003
6.17.120.	Draft Final Remedial Investigation Report Buildings 22 and 36, U.S. Army Soldier Systems Center Natick, Massachusetts Volume 2 of 2	Draft	6/20/2003
6.17.121.	NPDES Permit Exclusion - Chemical Data April 1, 2003 to June 30, 2003	Final	7/18/2003
6.17.122.	Tier III Deterministic Ecological Risk Assessment Report	Final	3/23/2004
6.17.123.	Draft Final Quarterly Groundwater Sampling Report Event 31 (September 2002) U.S. Army Soldier Systems Center Natick, Massachusetts	Draft	8/18/2003
6.17.124.	Draft Final Quarterly Groundwater Sampling Report Event 32 (December 2002) U.S. Army Soldier Systems Center Natick, Massachusetts	Draft	8/18/2003
6.17.125.	Method 2 Risk Characterization and Class A-2 Response Action Outcome Statement	Final	9/1/2003
6.17.126.	Final Phase II Site Investigation Report, Volume I - Boiler Plant Site	Final	9/1/2003
6.17.127.	Final Phase II Site Investigation Report, Volume II Appendices - Boiler Plant Site	Final	9/1/2003
6.17.128.	Final Work Plan Building 2 & 45 Site Investigation U.S. Army Soldier Systems Center Natick, Massachusetts	Final	1/1/2004
6.17.129.	Draft Final Quarterly Groundwater Sampling Report Event 33 (April 2003)	Draft	1/12/2004
6.17.130.	Draft Final Site Investigation Work Plan, Buildings 62 & 68	Draft	1/20/2004
6.17.131.	Draft Final Quarterly Groundwater Sampling Report Event 34 (June 2003)	Draft	2/20/2004
6.17.132.	NPDES Permit Exclusion Chemical Data October 1 2003-December 31 2003	Final	2/24/2004
6.17.133.	New Long-Term Monitoring Well Letter Report T-25 Area U.S. Army Soldier Systems Center Natick, Massachusetts	Final	2/23/2004
6.17.134.	Long-Term Monitoring Plan T-25 Area (OU-1) Ground	Final	3/23/2004

	Water Treatment System U.S. Army Soldier Systems Center Natick, Massachusetts		
6.17.135.	Draft Site Investigation Report, Building 14 and Former Building 13, U.S. Army Soldier Systems Center (SSC) Natick, Massachusetts	Draft	3/26/2004
6.17.136.	New Extraction Well Letter Report T-25 Area U.S. Army Soldier Systems Center Natick, Massachusetts	Final	4/22/2004
6.17.137.	T-25 Area (OU-1) Ground Water Treatment System Operation and Maintenance Manual Volume 1 of 2	Final	5/1/2004
6.17.138.	T-25 Area (OU-1) Ground Water Treatment System Operation and Maintenance Manual Volume 2 of 2	Final	5/2/2004
6.17.139.	Draft Buildings 22 & 36 Feasibility Study Work Plan	Draft	4/9/2004
6.17.140.	Draft Final Quarterly Groundwater Sampling Report Event 35 (September 2003)	Draft	7/22/2004
6.17.141.	Draft Final Quarterly Groundwater Sampling Report Event 36 (December 2003)	Draft	8/20/2004
6.17.143.	Final Work Plan Addendum - Building 14 and Former Building 13 Site Investigation	Final	9/27/2004
6.17.144.	Building 14 and Former Building 13 Site Investigation Report	Final	9/30/2004
6.17.145.	Draft T-25 Area Groundwater Treatment System January - June 2004 Semi Annual Report	Draft	10/7/2004
6.17.147.	Draft Buildings 22 & 36 Feasibility Study Report	Draft	10/22/2004
6.17.148.	Draft Quarterly Assurance Project Plan Addendum	Draft	11/19/2004
6.17.149.	Draft Final Quarterly Groundwater Sampling Report Event 37 (March 2004)	Draft	11/23/2004
6.17.150.	Safety and Health Plan	Draft	11/24/2004
6.17.151.	Draft Study Area 2 Record Review Memorandum	Draft	2/21/2005
6.17.152.	Final Quality Assurance Project Plan Addendum, Quarterly Groundwater Monitoring Program - U.S. Army Soldier Systems Center (SSC) Natick, MA	Final	2/4/2005
6.17.153.	Draft Buildings 62 and 68 Removal Action Work Plan	Draft	2/8/2005
6.17.154.	Application of an Updated Regional Groundwater Flow Model and an Updated T-25 Area Transport Model	Final	2/9/2005
6.17.155.	Numerical Simulations of Remedial Alternatives for the PCE Plume Near Buildings 36 and 22	Final	2/9/2005
6.17.156.	Draft Final Quarterly Groundwater Sampling Report Event 38 (June 2004)	Draft	2/17/2005

6.18. AOCs identified as of the effective date of this Agreement are listed in Appendix B to this Agreement and included in the Plan. AOCs that are identified by the Parties after the effective date of this Agreement in accordance with Subsection 9.7 of this Agreement shall be included in the Plan in accordance with Section XI, *Deadlines and Contents Of Site Management Plan*, and Section XII, *Budget Development And Amendment Of Plan*, of this Agreement.

6.19. SSAs identified as of the effective date of this Agreement are listed in Appendix C to this Agreement. These areas will be evaluated under the Site Screening Process set forth in Subsection 9.4 of this Agreement to determine whether they are AOCs requiring additional study through the RI/FS process. SSAs that are agreed to by the Parties after the effective date of this Agreement in accordance with Subsection 9.4.3 of this Agreement shall be included in the Plan in accordance with Section XI, *Deadlines and Contents Of Site Management Plan*, and Section XII, *Budget Development And Amendment Of Plan*, of this Agreement.

VII. EPA DETERMINATIONS

7.1. The following constitutes a summary of the determinations relied upon by EPA to establish its jurisdiction and authority to enter into this Agreement. None of these determinations shall be considered admissions by any person, related or unrelated to this Agreement, for purposes other than determining the basis of this Agreement or establishing the jurisdiction and authority of the Parties to enter into this Agreement.

- 7.1.1. The Army is a "person" as defined in CERCLA Section 101(21), 42 U.S.C. § 9601(21).
- 7.1.2. SSC is a "facility" as defined by CERCLA Section 101(9), 42 U.S.C. § 9601(9), and 10 U.S.C. § 2707, and is subject to the special provisions for federal facility NPL sites in CERCLA Section 120, 42 U.S.C. § 9620, and to the DERP, 10 U.S.C. § 2701 et seq.
- 7.1.3. SSC is a facility under the jurisdiction, custody, or control of the United States Department of Defense within the meaning of Executive Order 12580, 52 Fed. Reg. 2923, January 29, 1987, and within the meaning of DERP, 10 U.S.C. § 2701 et seq. The Army is authorized to act on behalf of the Secretary of Defense for all functions delegated by the President through Executive Order 12580 that are relevant to this Agreement.
- 7.1.4. The United States is the owner of SSC as defined in CERCLA Sections 101(20) and 107(a)(1), 42 U.S.C. §§ 9601(20) and 9607(a)(1). The Army is the Department of Defense component charged with fulfilling the obligations of the owner and operator under CERCLA at SSC.
- 7.1.5. There has been a Release or a substantial threat of a Release of Hazardous Substances, pollutants or contaminants at or from SSC.

As a result of the various activities carried out at SSC since 1954, there are locations within and adjacent to SSC where Hazardous Substances have been deposited, stored, disposed of or placed, or otherwise have come to be located within the meaning of CERCLA Section 101(9) and (14), 42 U.S.C. § 9601(9) and (14). As a result of the same activities, there are locations within and adjacent to SSC where there have been or may have been Releases into the environment of Hazardous Substances, pollutants, or contaminants at or from SSC within the meaning of CERCLA Sections 101(22), 104, 106 and 107, 42 U.S.C. §§ 9601(22), 9604, 9606 and 9607, and RCRA Section 7003, 42 U.S.C. § 6973. These locations include the AOCs listed in Appendix B to this Agreement and in the Plan, and the SSAs listed in Appendix C to this Agreement and in the Plan.

- 7.1.6. The actions provided for in this Agreement are consistent with the NCP.
- 7.1.7. The actions provided for in this Agreement are necessary to protect the public health and welfare and the environment.
- 7.1.8. This Agreement provides for the expeditious completion of all necessary Response Actions.
- 7.1.9. The Army is the authorized delegatee of the President under Executive Order 12580 for receipt of notification of State ARARs required by CERCLA Section 121(d)(2)(A)(ii), 42 U.S.C. § 9621(d)(2)(A)(ii).

VIII. STATUTORY COMPLIANCE/RCRA-CERCLA INTEGRATION

8.1. The Parties intend to integrate the Army's CERCLA response obligations and RCRA corrective action obligations which relate to the Release(s) of Hazardous Substances, hazardous wastes, pollutants or contaminants covered by this Agreement into this comprehensive Agreement. Therefore, the Parties intend that activities covered by this Agreement will be deemed to achieve compliance with CERCLA, 42 U.S.C. § 9601 et seq.; to satisfy the corrective action requirements of Sections 3004(u) and (v) of RCRA, 42 U.S.C. § 6924(u) and (v), for a RCRA permit, and Section 3008(h), 42 U.S.C. § 6928(h), for interim status facilities; and to 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.

8.2. Based upon the foregoing, the Parties intend that any Remedial Action selected, implemented and completed under this Agreement shall be deemed by the Parties to be protective of human health 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 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 State and Federal environmental requirements.

8.3. 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 on-going hazardous waste management activities at SSC may require the issuance of permits under Federal and State laws. This Agreement does not affect the requirements, if any, to obtain such permits. However, if a permit is issued to the Army for ongoing hazardous waste management activities at the Site, EPA shall reference and incorporate any appropriate provisions, including appropriate schedules (and the provision for extension of such schedules), of this Agreement into such permit. The Parties intend that the judicial review of any permit conditions that reference this Agreement shall, to the extent authorized by law, only be reviewed under the provisions of CERCLA.

8.4. 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.

IX. WORK TO BE PERFORMED

9.1. The Parties recognize that the Army has already identified certain AOCs at the Site and has conducted RI/FS Work for some of these AOCs. The Army need not halt currently ongoing Work but may be obligated to modify or supplement Work previously done to meet the requirements of this Agreement. 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.

9.2. Either Party may propose that a portion of the Site be designated as a distinct Operable Unit. This proposal must be in writing to the other Party and must stipulate the reasons for the proposed designation. The proposal shall be discussed by the Project Managers within forty-five (45) days from the date of receipt of such written notice. Dispute Resolution may be invoked if the Parties are not in agreement on the proposal of designating a specific Operable Unit. If Dispute Resolution is not invoked by either Party within thirty (30) days after the date of the Project Managers' discussion concerning the proposal, or if the need for an Operable Unit is established through Dispute Resolution, the portion of the Site proposed shall become an Operable Unit as that term is defined in Section II, *Definitions*, of this Agreement.

9.3. Either Party may propose that an established Operable Unit be modified.

The proposal must be in writing to the other Party, and must state the reasons for the proposed modification. Dispute Resolution may be invoked if the Parties are not in agreement on the proposal of modifying a specific Operable Unit. If Dispute Resolution is not invoked within thirty (30) days from the date of the receipt of such a proposal by the nonproposing Party, or if the need for modifying an Operable Unit is established through Dispute Resolution, the Operable Unit shall be modified.

9.4. Site Screening Areas/Site Screening Process

9.4.1. The Army shall develop, implement and report upon SSAs as defined herein in order to satisfy its obligations under RCRA/CERCLA integration. The SSP is intended to provide a simplified investigative method whereby identified SSAs can be evaluated to determine whether they are AOCs.

9.4.2. Appendix C contains a list of SSAs that the Parties agree may pose a threat, or potential threat, to public health or welfare or the environment. As outlined in the Plan, the Army shall submit to EPA a SSP Work Plan(s) that shall outline the SSP investigation activities necessary to determine if there have been Releases of Hazardous Substances, pollutants or contaminants to the environment in, at or from these SSAs.

9.4.3. When a Party to this Agreement determines that an area on the Site that has not previously been identified may pose a threat, or potential threat, to public health or welfare or the environment, such Party shall notify in writing the other Party of such determination. Notification of the other Party under this Subsection shall at a minimum include the location of such area on the Site and the reason(s) the Party believes such an area poses a threat, or potential threat, to public health or welfare or the environment. The Parties shall have forty-five (45) days from the date of receipt of such notification to discuss the proposal and agree whether such area shall be addressed under this Agreement as an SSA. If the Parties cannot agree on whether or not to address such an area under this Agreement within that 45-day period, either Party can invoke Dispute Resolution. If Dispute Resolution is not invoked within that 45-day period, or if an SSA is established through Dispute Resolution, the proposed SSA will be addressed as an SSA in accordance with this Section.

9.4.4. Any area at the Site that is established as an SSA in accordance with Subsection 9.4.3 after the effective date of this Agreement shall be added to the list of SSAs in the Plan as an additional SSA to be investigated and possibly remediated in accordance with this Agreement. For any SSAs established in accordance with Subsection 9.4.3 after the effective date of this Agreement, the Army shall within thirty (30) days of establishment of such SSA submit to EPA a Schedule for Work to be performed at the SSA. The proposed SSA Schedule shall include: a submittal date for submission of a SSP Work Plan; regulatory/restoration advisory board (RAB) review periods on the SSP Work Plan; a Schedule for completion of SSP Investigation field work; and a submittal date for the SSP Report. Within fourteen

(14) days of receipt of the proposed Schedule, EPA shall notify the Army in writing as to whether the proposed Schedule is approved or disapproved. If EPA approves the proposed SSA Schedule, the Schedule shall be incorporated in the Plan. If EPA does not approve the proposed SSA Schedule, the Parties shall have fourteen (14) days from the close of the initial 14-day review and comment period to attempt to revise the proposed Schedule. If, after this additional 14-day period, EPA still does not approve of the revised proposed Schedule, either Party can invoke Dispute Resolution.

9.4.5. In submitting the proposed Schedule to the State, the Army shall notify the State of the duration of the 14-day review and comment period corresponding to such Schedule as established in this Subsection. If comments on the proposed Schedule are received from the State within that 14-day period, the Army shall address those comments to the extent practicable prior to EPA's approval of such Schedule. If comments are not received from the State within that 14-day period, the Parties shall proceed either (i) to incorporate the proposed Schedule into the Plan if EPA has approved such Schedule in accordance with this Subsection, or (ii) to attempt to revise the proposed Schedule if EPA has not approved such Schedule in accordance with this Subsection.

9.4.6. The SSP investigation(s) shall be conducted in accordance with a SSP Work Plan(s) developed by the Parties in accordance with Subsection 9.4.2 of this Agreement and with the requirements set forth in this Section. The scope of the SSP(s) shall be determined by the Parties. In planning the SSPs, the Army shall consider current CERCLA Guidance to determine if there have been Releases of Hazardous Substances, pollutants or contaminants to the environment in, at or from the SSAs.

9.4.7. Upon conclusion of a SSP investigation, the Army shall submit to EPA and the State a draft SSP Report that shall include a recommendation as to whether: (1) the SSA addressed by the SSP investigation is an AOC, or (2) such SSA does not pose a threat or potential threat to public health or welfare or the environment and therefore should be removed from further study under this Agreement. The SSP Report(s) shall be subject to the review and comment procedures described in Section X, *Consultation*, of this Agreement. In commenting on a draft SSP Report, EPA and the State each shall specifically state whether it agrees with the Army's recommendation regarding whether a SSA is an AOC.

9.4.8. Those SSAs that are determined to be AOCs shall be added to the list of AOCs in the Plan and evaluated in accordance with Subsection 9.5 of this Agreement. If the Parties cannot agree on the determination of whether an SSA(s) is an AOC(s), Dispute Resolution may be invoked on the draft final SSP Report.

9.4.9. For those SSAs that the Parties agree are not AOCs, the Army shall prepare, with EPA's assistance, a brief decision document reflecting that agreement. This agreement must be signed by the Parties' Project Managers.

9.4.10. The Parties shall designate Operable Units for those SSAs that are designated as AOCs. For each such AOC, the Army shall, within ninety (90) days of submittal of the final SSP Report, submit to EPA a proposed Schedule, including a Deadline, for the submission of the draft RI/FS Work Plan for each such Operable Unit.

9.4.11. Within fourteen (14) days of receipt of such proposed Schedule, EPA shall notify the Army in writing as to whether the proposed Schedule is approved or disapproved. If EPA approves the proposed Schedule, such Schedule shall be incorporated into the Site Management Plan. If EPA does not approve the proposed Schedule, the Parties shall have an additional fourteen (14) days from the close of the initial 14-day review and comment period to attempt to revise such proposed Schedule. If, after this additional 14-day period, EPA does not approve the revised proposed Schedule, either Party can invoke Dispute Resolution.

9.4.12. In submitting the proposed Schedule to the State, the Army shall notify the State of the duration of the 14-day review and comment period corresponding to such Schedule as established in this Subsection. If comments on the proposed Schedule are received from the State within that 14-day period, the Army shall address those comments to the extent practicable prior to EPA's approval of such Schedule. If comments are not received from the State within that 14-day period, the Parties shall proceed either (i) to incorporate the proposed Schedule into the Plan if EPA has approved such Schedule in accordance with this Subsection, or (ii) to attempt to revise the proposed Schedule if EPA has not approved such Schedule in accordance with this Subsection.

9.4.13. Within twenty-one (21) days after the RI/FS Work Plan(s) becomes final in accordance with Subsection 10.9, the Army shall submit a proposed Schedule that includes: a date for initiation of associated field work; a submittal date for the draft Remedial Investigation Report; and a submittal date for the draft Feasibility Study.

9.4.14. Within fourteen (14) days of receipt of such proposed Schedule, EPA shall notify the Army in writing as to whether the proposed Schedule is approved or disapproved. If EPA approves the proposed Schedule, such Schedule shall be incorporated into the Plan. If EPA does not approve the proposed Schedule, the Parties shall have an additional fourteen (14) days from the close of the initial 14-day review and comment period to attempt to revise such proposed Schedule. If, after this additional 14-day period, EPA does not approve the revised proposed Schedule, either Party can invoke Dispute Resolution.

9.4.15. In submitting the proposed Schedule to the State, the Army shall notify the State of the duration of the 14-day review and comment period corresponding to such Schedule as established in this Subsection. If comments on the proposed Schedule are received from the State within that 14-day period, the Army shall address those comments to the extent practicable prior to EPA's approval of such

Schedule. If comments are not received from the State within that 14-day period, the Parties shall proceed either (i) to incorporate the proposed Schedule into the Plan if EPA has approved such Schedule in accordance with this Subsection, or (ii) to attempt to revise the proposed Schedule if EPA has not approved such Schedule in accordance with this Subsection.

9.5. Remedial Investigation and Feasibility Study

9.5.1. The Army agrees it shall develop, implement and report upon a RI for each Operable Unit that is designated for each AOC that is listed in Appendix B to this Agreement or that is identified after the effective date of this Agreement in accordance with Subsection 9.4 and included in the Plan in accordance with Section XI, *Deadlines and Contents Of Site Management Plan*, and Section XII, *Budget Development And Amendment Of Plan*, of this Agreement. RIs shall be conducted in accordance with the requirements and Schedules set forth in the approved RI/FS Work Plan and the Plan. RIs shall meet the purposes set forth in Section IV, *Purpose*, of this Agreement. A Baseline Risk Assessment shall be a component of the RIs. Final Site cleanup level criteria cannot be determined before the completion of a Baseline Risk Assessment.

9.5.2. The Army agrees it shall develop, implement and report upon a FS for each such Operable Unit where, based on the outcome of the RI, an unacceptable risk to human health or the environment exists. FSs shall be conducted in accordance with the requirements and Schedules set forth in the Plan and any Schedule(s) approved in accordance with Subsection 9.4.11 of this Agreement. The FS shall meet the purposes set forth in Section IV, *Purpose*, of this Agreement.

9.6. Interim Remedial Actions

9.6.1. The Army shall implement those IRAs necessary to prevent, minimize or eliminate risks to human health and the environment caused by the Release of Hazardous Substances, pollutants, or contaminants at or from the Site. An IRA is identified, proposed, and implemented prior to a final Remedial Action. Each IRA shall attain ARARs to the extent required by CERCLA or the NCP, and be consistent with and contribute to the efficient performance of a final Remedial Action(s) taken at an AOC or OU at the Site. Each IRA must be protective of human health and the environment and comply with CERCLA and the NCP and with State laws to the extent they are legally applicable or relevant and appropriate requirements in accordance with CERCLA Section 121, 42 U.S.C. § 9621, and this Agreement.

9.6.2. When a Party to this Agreement determines that an IRA is necessary for an area(s) at the Site, that Party shall notify the other Party, in writing, of such determination. This notification shall at a minimum include the location of such area(s) at the Site and the reason(s) the Party believes an IRA is required. Either Party may propose an IRA for any SSA, AOC, or Operable Unit at the Site deemed suitable for an IRA.

9.6.3. Within thirty (30) days of notification, either Party may request a meeting of the Parties to assist in expediting the decision of whether to proceed with an IRA. If a dispute arises over whether to proceed with an IRA under this Agreement and cannot be settled between the Parties within thirty (30) days from receipt of notification, or thirty (30) days after the meeting provided for in this Subsection, the dispute shall immediately be brought to the Dispute Resolution Committee (DRC) in accordance with Section XX, *Dispute Resolution*, of this Agreement.

9.6.4. After a determination that an IRA is required under this Agreement, the Army shall, within forty-five (45) days from such determination, submit to EPA and the State a proposed Schedule to support the selection of an IRA. At a minimum, such proposed Schedule shall include submittal dates for a Proposed Plan(s) and Interim Record(s) of Decision.

9.6.5. Within fourteen (14) days of receipt of such proposed Schedule, EPA shall notify the Army in writing as to whether the proposed Schedule is approved or disapproved. If EPA approves the proposed Schedule, such Schedule shall be incorporated into the Plan. If EPA does not approve the proposed Schedule, the Parties shall have an additional fourteen (14) days from the close of the initial 14-day review and comment period to attempt to revise such proposed Schedule. If, after this additional 14-day period, EPA does not approve the revised proposed Schedule, either Party can invoke Dispute Resolution.

9.6.6. In submitting the proposed Schedule to the State, the Army shall notify the State of the duration of the 14-day review and comment period corresponding to such Schedule as established in this Subsection. If comments on the proposed Schedule are received from the State within that 14-day period, the Army shall address those comments to the extent practicable prior to EPA's approval of such Schedule. If comments are not received from the State within that 14-day period, the Parties shall proceed either (i) to incorporate the proposed Schedule into the Plan if EPA has approved such Schedule in accordance with this Subsection, or (ii) to attempt to revise the proposed Schedule if EPA has not approved such Schedule in accordance with this Subsection.

9.7. Records of Decision and Plans for Remedial Action

9.7.1. This Subsection shall apply to selection of Remedial Actions and any disputes relating thereto. Unless specifically stated otherwise, all draft documents concerning the selection of Remedial Actions shall be subject to a forty five (45) day period for review and comment. Either Party may extend any review and comment period set out in this Subsection for an additional twenty (20) days by providing written notice to the other Party at least seven (7) days prior to the close of such comment period. In appropriate circumstances, this time period may be further extended in accordance with Section XIII, *Extensions*. EPA shall transmit by next day mail its written comments to the Army.

9.7.2. Within ninety (90) days after finalization of an FS, the Army shall submit a draft Proposed Plan for each Operable Unit addressed by such FS to EPA and the State for review and comment. EPA and the State shall, within forty five (45) days from receipt of such draft Proposed Plan, each submit written comments on the draft Proposed Plan to the Army.

9.7.3. If EPA or the State submits comments on the draft Proposed Plan in a timely manner, the Army shall submit to EPA and the State a written response to each comment, together with a draft final Proposed Plan, within twenty-one (21) days from the close of the 45-day review and comment period (or from the close of any extension of such period). In submitting the draft Proposed Plan to the State, the Army shall notify the State of the duration of the 45-day review and comment period corresponding to such document as established in this Subsection. If comments are not received from the State within that 45-day period, the Army shall proceed to issue the draft final Proposed Plan and written responses to any EPA comments within 21 days from the close of such period (or from the close of any extension of such period).

9.7.4. EPA and the Army shall have twenty-one (21) days from receipt by EPA of the draft final Proposed Plan to reach agreement on the final Proposed Plan. If EPA and the Army cannot agree on the final Proposed Plan within twenty-one (21) days, the matter shall be referred to Dispute Resolution, unless extended in accordance with Paragraph 9.7.1.

9.7.5. Within twenty-one (21) days after finalization of the Proposed Plan in accordance with this Subsection, the Army shall publish its Proposed Plan for thirty (30) days of public review and comment. During the public comment period, the Army shall make the Administrative Record available to the public and distribute the Proposed Plan. The Army shall hold a public information meeting during the public comment period to discuss the preferred alternative for each Operable Unit. Copies of all written and oral public comments received will be provided to EPA. Public review and comment, including a public hearing during the public comment period, shall be conducted in accordance with CERCLA Section 117(a), 42 U.S.C. § 9617(a), and applicable EPA Guidance.

9.7.6. Following public comment, the Army, in consultation with EPA, will determine if the Proposed Plan should be modified based on the comments received. These modifications will be made by the Army, and the modified documents will be reviewed by EPA. EPA and the Army shall determine whether additional public comment must be solicited where modifications to the Proposed Plan substantially change the remedy originally proposed to the public. If within fourteen (14) days following the close of the public comment period EPA and the Army cannot agree on the determination concerning whether a Proposed Plan should be modified or whether additional public comment is necessary, the matter shall be referred to Dispute Resolution.

9.7.7. The Army shall submit its draft ROD to EPA and the State within thirty

(30) days following the close of the public comment period, including any extensions, on the Proposed Plan. The draft ROD will include a Responsiveness Summary, in accordance with applicable EPA Guidance. Pursuant to CERCLA Section 120(e)(4)(A), 42 U.S.C. § 9620(e)(4)(A), EPA and the Army shall make the final selection of the Remedial Action(s) for each Operable Unit.

9.7.8. EPA and the State shall, within forty-five (45) days from receipt of the draft ROD, each submit to the Army either (i) written comments on the draft ROD or (ii) a letter indicating that it will concur in the draft ROD.

9.7.9. If EPA or the State submits comments on the draft ROD in a timely manner, the Army shall submit to EPA and the State a written response to each comment, together with a draft final ROD, within thirty (30) days from the close of the 45-day review and comment period. In submitting the draft ROD to the State, the Army shall notify the State of the duration of the 45-day review and comment period corresponding to such document as established in this Subsection. If comments are not received from the State within that 45-day period, the Army shall proceed to issue the draft final ROD and written responses to any EPA comments within 30 days from the close of such period.

9.7.10 EPA and the State shall, within forty-five (45) days from receipt of the draft final ROD, each submit written comments on the draft final ROD to the Army. In issuing the draft final ROD to the State, the Army shall notify the State of the duration of the 45-day review period corresponding to that document and shall specifically request in writing that the State submit, by the close of that 45-day period, a letter to the Army indicating whether or not the State agrees with the terms of the draft final ROD.

9.7.11. If comments or a letter indicating State agreement or disagreement with the draft final ROD are not received from the State by the close of that 45-day period, the Army shall consult with EPA within three days from the close of that 45-day period regarding whether or not to execute the final ROD and submit it to EPA for signature within 45 days from the date of such consultation. If EPA and the Army agree to proceed with execution and submission of the final ROD, the Army shall submit the executed final ROD to EPA for signature within 45 days from the date of such consultation. If EPA and the Army agree that the draft final ROD should not be executed within 45 days from the date of such consultation, the Parties shall establish an alternative time frame for execution of the ROD.

9.7.12. If the Parties are unable to reach agreement on the selection of the Remedy, the Administrator shall select the Remedy in accordance with all applicable laws and procedures. EPA shall then prepare and issue the final ROD. EPA shall comply with the public participation requirements of the NCP.

9.7.13. Notice of the final ROD shall be published by the Party preparing it and shall be made available to the public prior to commencement of the Remedial Action,

in accordance with CERCLA Section 117(b), 42 U.S.C. § 9617(b). The final ROD shall include a statement that the State has agreed with, disagreed with, or declined to document their position on the selection of the Remedy.

9.8. Remedial Design and Remedial Action

9.8.1. Upon submittal of a draft ROD for each Operable Unit, the Army shall submit to EPA and the State a Remedial Design Schedule, a list of design deliverables for each anticipated Remedial Action, and a submittal date for the Remedial Action Work Plan. The Remedial Design Schedule shall include proposed regulatory/RAB review periods for each of the design submittals and the Remedial Action Work Plan. These documents shall be prepared in accordance with this Agreement and applicable guidance issued by EPA, including the EPA-Navy *Principles and Procedures for Specifying, Monitoring and Enforcement of Land Use Controls and Other Post-ROD Actions*, to which the Army has agreed to follow. (These Principles may be amended upon agreement).

9.8.2. Within fourteen (14) days from receipt of the proposed Schedule and list of design deliverables, EPA shall notify the Army in writing as to whether such proposed Schedule and list are approved or disapproved. If EPA approves the proposed Schedule and list, such Schedule shall be incorporated into the Plan at such time that the ROD is finalized. If EPA does not approve the proposed Schedule and list, the Parties shall have an additional fourteen (14) days from the close of the initial 14-day review and comment period to attempt to revise such proposed Schedule and list. If, after this additional 14-day period, EPA does not approve the revised proposed Schedule, either Party can invoke Dispute Resolution.

9.8.3. In submitting the proposed Remedial Design Schedule and list of design deliverables to the State, the Army shall notify the State of the duration of the 14-day review and comment period corresponding to such documents as established in this Agreement. If comments on such proposed Schedule and list of deliverables are received from the State within that 14-day period, the Army shall address those comments to the extent practicable prior to EPA's approval of such Schedule or list of deliverables. If comments are not received from the State within that 14-day period, the Parties shall proceed either (i) to incorporate the proposed Schedule into the Plan if EPA has approved such Schedule and list in accordance with this Subsection, or (ii) to attempt to revise the proposed Schedule if EPA has not approved such Schedule and list in accordance with this Subsection.

9.8.4. The Remedial Design Schedule agreed to by the Parties shall result in commencement of substantial continuous physical on-site activity at the Operable Unit within fifteen (15) months after completion of the ROD. All design documents shall be prepared in accordance with this Agreement and applicable EPA Guidance. The Remedial Design (RD) shall provide the appropriate plans and specifications describing the intended remedial construction and shall include provisions necessary to ensure that the RA will achieve ARARs and performance standards identified in

the ROD. The RD shall describe short and long-term implementation actions, and responsibilities for the actions, to ensure long-term viability of the remedy, which may include both Land Use Controls and an engineered portion (e.g., landfill caps, treatment systems) of the remedy. The term "implementation actions" includes all actions to implement, operate, maintain, and enforce the remedy.

9.8.5. The RA Work Plan(s) shall at a minimum contain a Schedule for the completion of the Remedial Action, a Health and Safety Plan, a Sampling and Analysis Plan, a Quality Assurance Project Plan, a Long-Term Monitoring Plan and an operation and maintenance plan, if necessary. The Schedule contained in the final RA Work Plan(s) will be immediately incorporated in the Plan.

9.8.6. After the final design document is approved in accordance with Section X, *Consultation*, of this Agreement, the Army shall begin performance of the Remedial Action in accordance with the final Remedial Design and the RA Work Plan. The Remedial Action shall be completed in accordance with the approved final Remedial Design and RA Work Plan and all applicable EPA Guidance.

9.9 Finalization of Remedial Actions

The Army agrees that it shall submit to EPA a Primary Document memorializing Remedial Action completion in accordance with the Schedule in the Site Management Plan following the completion of the RA for each OU. This document shall be called a Remedial Action Completion Report (RACR) and shall be prepared in accordance with this Agreement and applicable Guidance issued by EPA, including the *EPA-Navy Principles and Procedures for Specifying, Monitoring and Enforcement of Land Use Controls and Other Post-ROD Actions*, to which the Army has agreed to follow. (These Principles may be amended upon Agreement.)

RACR(s) shall memorialize Remedial Action completion at each OU, documenting the cleanup activities that took place at the OU, and that the performance standards specified in the ROD have been met. A final RACR shall be submitted when the performance standards specified in the ROD are achieved. Unless otherwise agreed to in writing by the Parties, a RACR shall also be prepared when the physical construction of the system is complete and the unit is operating as designed. The RACR shall outline in detail, and provide an explanation for, any activities that were not conducted in accordance with the final RD and/or RA Work Plan(s).

9.10. Supplemental Response Action

9.10.1. The Parties recognize that subsequent to finalization of a ROD, a need may arise for one or more supplemental Response Actions to remedy continuing or additional Releases or threats of Releases of Hazardous Substances, pollutants or contaminants at or from the Site. If such Release or threat of Release may present an immediate threat to public health or welfare or the environment, it shall be addressed in accordance with Section XVIII, *Removal And Emergency Actions*, of this Agreement. If such Release or threat of Release does not present an immediate threat

to public health or welfare or the environment, it shall be addressed in accordance with this Section.

9.10.2. A supplemental Response Action shall be undertaken only when:

9.10.2.1. A determination is made that as a result of the Release or threat of Release of a Hazardous Substance, pollutant or contaminant at or from the Site, an additional Response Action is necessary and appropriate to assure the protection of human health or the environment; or

9.10.2.1.1. There is or has been a release of hazardous waste or hazardous constituents into the environment and corrective response action is necessary to protect human health or the environment; and,

9.10.2.2. Either of the following conditions is met for any determination made in accordance with Subsection 9.10.2.1, above:

9.10.2.2.1. For supplemental Response Actions proposed after finalization of the ROD, but prior to EPA Certification, the determination must be based upon conditions at the Site that were unknown at the time of finalization of the ROD or based upon new information received in whole or in part by EPA following finalization of the ROD; or

9.10.2.2.2. For supplemental Response Actions proposed after EPA Certification, the determination must be based upon conditions at the Site that were unknown at the time of EPA Certification or based upon new information received in whole or in part by EPA following EPA Certification.

9.10.3. If, subsequent to ROD signature, either Party concludes that a supplemental Response Action is necessary based on the criteria set forth in Subsection 9.10.2, such Party shall promptly notify the other Party of its conclusion in writing. The notification shall specify the nature of the supplemental Response Action needed and the new information on which it is based. The Project Managers shall confer and attempt to reach consensus on the need for such an action within thirty (30) days from receipt of such notification. If after this 30-day period the Project Managers cannot reach consensus, either Party may notify the other Party in writing within ten (10) days from the close of the 30-day period that it intends to invoke Dispute Resolution. If the Project Managers are still unable to reach consensus within fourteen (14) days from the issuance of such notice, the question of the need for the supplemental Response Action shall be resolved through Dispute Resolution.

9.10.4. If the Project Managers agree, or if it is determined through Dispute Resolution, that a supplemental Response Action is necessary based on the criteria set forth in Subsection 9.10.2, the Army shall propose a Deadline for submittal of the supplemental Work Plan(s), if such a plan is necessary, and a Schedule for performance of the Work for the supplemental Response Action to EPA within ninety

(90) days following such agreement or determination.

9.10.5. The Army shall conduct a supplemental Response Action RI and/or FS, to the extent determined necessary by the Project Managers, in accordance with Subsection 9.5 of this Agreement. Following finalization of the supplemental Response Action RI/FS, the procedures described in Subsections 9.6 through 9.11 of this Agreement shall be followed.

9.11. Remedial Action/Site Completion

9.11.1. EPA and the Army have committed to streamlining procedures and documentation for post-ROD activities. Revised procedures may be amended to this agreement upon consensus by the parties. Until any new procedures and documentation are agreed upon, the following provisions will be applicable.

9.11.2. Construction Completion. The Army agrees that it shall submit to EPA information required to document completion of physical construction of the remedial action for all OUs within 30 days of completing physical construction at the Site as part of the final, amended primary document memorializing remedial action completion. This information must satisfy the NCP and provide a schedule for any remaining activities necessary to reach Site completion. The information will also address any five-year review requirements.

9.11.3. When the Army determines that Remedial Actions at all OUs have been completed, it shall document this event by amending the final Primary Document memorializing Remedial Action completion and submitting it to EPA for review. The information provided therein shall document compliance with statutory requirements and provide a consolidated record of all remedial activities for all OUs at the Site. In order for a Site to be eligible for completion, the following criteria must be met:

9.11.3.1. Performance standards specified in all RODs have been met, and all cleanup actions and other measures identified in the RODs have been successfully implemented.

9.11.3.2. The constructed remedies are operational and performing according to engineering specifications.

9.11.3.3. All sites are protective of human health and the environment.

9.11.3.4. The only remaining activities, if any, at the Site are operation and maintenance activities (which may include long-term monitoring).

9.11.4. Information provided shall summarize Work at the entire Site (i.e., all OUs). As outlined in Section 9.9 of this Agreement, the Primary Document memorializing Remedial Action completion for each OU, including the final OU, is required to

document that Work was performed according to design specifications. Information amended to the final Primary Document memorializing Remedial Action completion to indicate Remedial Action completion shall include a discussion regarding any operation and maintenance requirements and/or land use restrictions at the Site.

9.11.5. Information provided for Remedial Action completion shall be signed by the Army's signatory authority or designee, certifying that remedial activities have been completed in full satisfaction of the requirements of this Agreement, and shall include a request for EPA certification of Remedial Action completion at the Site. Within ninety (90) days of EPA's receipt of the Army's request for certification of Site completion, EPA shall:

9.11.5.1. Certify that all Response Actions have been completed at the Site in accordance with CERCLA, the NCP and this Agreement, based on conditions known at the time of certification; or

9.11.5.2. Deny the Army's request for certification of Site completion, stating the basis of its denial and detailing the additional Work needed for completion and certification.

9.11.6. If EPA, in consultation with the State, denies the Army's request for certification for Site completion in accordance with this Agreement, the Army may invoke Dispute Resolution in accordance with Section XX, *Dispute Resolution*, of this Agreement within twenty (20) days of receipt of the written denial of certification or determination that additional Work is necessary. If the denial of certification is upheld through the Dispute Resolution process, the Army will perform the requested additional Work.

9.11.7. If Dispute Resolution is not invoked, or if a denial of certification is upheld through Dispute Resolution, the Army shall, in the next draft Amended Site Management Plan submitted after receipt of the written denial of certification or Dispute Resolution finding, propose a Deadline for the submittal of a draft Supplemental Work Plan. The draft Supplemental Work Plan shall contain a Schedule for completion of the additional Work required. This Schedule, once approved, will be incorporated in the Site Management Plan. After performing the additional Work, the Army may resubmit a request for certification to EPA as outlined in this Subsection. EPA shall then grant or deny certification pursuant to the process set forth in this Subsection.

X. CONSULTATION

10.1. Review and Comment Process for Draft and Final Documents

10.1.1. Applicability

- 10.1.1.1. The provisions of this Section establish the procedures that shall be used by the Army and EPA to provide the Parties 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. § 12705, the Army will normally be responsible for issuing Primary and Secondary Documents to EPA. 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 Subsections 10.2 through 10.10 below.
- 10.1.1.2. The designation of a document as "draft" or "final" is solely for purposes of consultation with EPA 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 and the NCP.

10.2. General Process for RI/FS and RD/RA documents

10.2.1. 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 EPA. 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 either forty-five (45) days after the period established for review of a draft final document if Dispute Resolution is not invoked or as modified by decision of the Dispute Resolution process.

10.2.2. 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 EPA. 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.

10.3. Primary Documents

10.3.1. The Army shall complete and transmit draft reports for the following Primary Documents to EPA for review and comment in accordance with the provisions of this Section:

- 10.3.1.1. Scopes of Work

- 10.3.1.2. RI/FS Work Plans, including Sampling and Analysis Plans and QAPPs
- 10.3.1.3. Risk Assessments
- 10.3.1.4. RI Reports
- 10.3.1.5. Initial Screenings of Alternatives
- 10.3.1.6. FS Reports
- 10.3.1.7. Proposed Plans
- 10.3.1.8. Records of Decision
- 10.3.1.9. Remedial Designs
- 10.3.1.10. Remedial Action Work Plans
- 10.3.1.11 Remedial Action Completion Documents
- 10.3.1.12 Site Management Plans

10.3.2. Only the draft final reports for the Primary Documents identified above shall be subject to Dispute Resolution. The Army shall complete and transmit draft the Site Management Plan.

10.4. Secondary Documents

10.4.1. The Army shall complete and transmit draft reports for the following Secondary Documents to EPA for review and comment in accordance with the provisions of this Section:

- 10.4.1.1. Initial Remedial Action / Data Quality objectives
- 10.4.1.2. Site Characterization Summaries
- 10.4.1.3. Detailed Analyses of Alternatives
- 10.4.1.4. Post-screening Investigation Work Plans
- 10.4.1.5. Treatability Studies
- 10.4.1.6. Sampling and Data Results

10.4.2. Although EPA 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 Subsection 10.2 hereof. Target dates shall be established for the completion and transmission of draft secondary reports pursuant to the Site Management Plan.

10.5. Meetings of the Project Managers on Development of Documents

10.5.1. The Project Managers shall meet approximately every thirty (30) days, except as otherwise agreed by the Parties, to review and discuss the progress of Work being performed at the Site on the Primary and Secondary Documents. Prior to preparing any draft document specified in Subsections 10.3 and 10.4 above, the Project Managers shall meet to discuss the document 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 document.

10.6. Identification and Determination of Potential ARARs

10.6.1. For those Primary Document or Secondary Documents that consist of or include ARAR determinations, prior to the issuance of a draft document, the Project Managers shall meet to identify and propose, to the best of their ability, all potential ARARs pertinent to the document being addressed. Draft ARAR determinations shall be prepared by the Army in accordance with Section 121(d)(2) of CERCLA, the NCP and pertinent Guidance issued by EPA, which is not inconsistent with CERCLA and the NCP.

10.6.2. 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 and contaminants 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.

10.7. Review and Comment on Draft Document

10.7.1. The Army shall complete and transmit each draft Primary Document to EPA on or before the corresponding deadline established for the issuance of the document. The Army shall complete and transmit the draft Secondary Document in accordance with the target dates established for the issuance of such documents established pursuant to the Site Management Plan.

10.7.2. Unless the Parties mutually agree to another time period, all draft documents shall be subject to a forty five (45) day period for review and comment. Review of any document by EPA may concern all aspects of the document (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 promulgated by EPA. Comments by EPA shall be provided with adequate specificity so that the Army may respond to the comment and, if appropriate, make changes to the draft document. Comments shall refer to any pertinent sources of authority or references upon which the comments are based, and, upon request of the Army, EPA shall provide a copy of the cited authority or reference. Either Party may extend any review and comment period set out in this Subsection for an additional twenty (20) days by providing written notice to the other Party at least seven (7) days prior to the close of such comment period. In appropriate circumstances, this time period may be further extended in accordance with Section XIII, *Extensions*. EPA shall transmit by next day mail its written comments to the Army.

10.7.3. Representatives of the Army shall make themselves readily available to EPA during the comment period for purposes of informally responding to questions and comments on draft document. 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.

10.7.4. In commenting on a draft document that contains a proposed ARAR determination, EPA shall include a reasoned statement of whether it objects to any portion of the proposed ARAR determination. To the extent that EPA 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.

10.7.5. Following the close of the comment period for a draft document, the Army shall give full consideration to all written comments on the draft document submitted during the comment period. Within 30 days of the close of the comment period on a draft Secondary Document, the Army shall transmit to EPA its written response to comments received within the comment period. Within 30 days of the close of the comment period on a draft Primary Document, the Army shall transmit to EPA a draft final Primary Document, which shall include the Army's response to all written comments, received within the comment period. While the resulting draft final document shall be the responsibility of the Army, it shall be the product of consensus to the maximum extent possible.

10.8. Availability of Dispute Resolution for Draft Final Primary Documents

10.8.1 Dispute Resolution shall be available to the Parties for draft final Primary Documents as set forth in Section XX, *Dispute Resolution*.

10.8.2 When Dispute Resolution is invoked on a draft Primary Document, Work may be stopped in accordance with the procedures set forth in Section XX, *Dispute Resolution*, regarding Dispute Resolution.

10.9. Finalization of Documents

10.9.1. The draft final Primary Document shall serve as the final Primary Document if no Party invokes Dispute Resolution regarding the document or, if invoked, at completion of the Dispute Resolution process should the Army's position be sustained. If the Army's determination is not sustained in the Dispute Resolution process, the Army shall prepare, within not more than thirty-five (35) days, a revision of the draft final document which conforms to the results of Dispute Resolution. In appropriate circumstances, the time period for this revision period may be extended in accordance with the Site Management Plan.

10.10. Subsequent Modifications of Final Documents

10.10.1. Following finalization of any Primary Document pursuant to Subsection 10.9 above, EPA or the Army may seek to modify the document, including seeking additional field work, pilot studies, computer modeling or other supporting technical work, only as provided in Subsections 10.10.2 and 10.10.3 below.

10.10.2. EPA or the Army may seek to modify a document after finalization if it

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

10.10.3. In the event that a consensus is not reached by the Project Managers on the need for a modification, either EPA or the Army may invoke Dispute Resolution to determine if such modification shall be conducted. Modification of a document shall be required only upon a showing that: (1) the requested modification is based on significant new information, and (2) 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.

10.10.4. Nothing in this Subsection shall alter EPA's ability to request the performance of additional work that 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.

XI. DEADLINES AND CONTENTS OF SITE MANAGEMENT PLAN

11.1. The Plan is attached to this Agreement as Appendix D. The Plan and each annual Amendment to the Plan shall be Primary Documents. Milestones established in a Plan or established in a final Amendment to a Plan remain unchanged unless otherwise agreed to by the Parties or unless directed to be changed pursuant to the agreed Dispute Resolution process set out in Section XX, *Dispute Resolution*. In addition, if an activity is fully funded in the current FY, Milestones associated with the performance of Work and submittal of Primary Documents associated with such activity (even if they extend beyond the current FY) shall be enforceable.

11.2. The Plan includes proposed actions for both CERCLA responses and actions which would otherwise be handled pursuant to RCRA corrective actions per Section VIII, *Statutory Compliance/RCRA-CERCLA Integration*, and outlines all response activities and associated documentation to be undertaken at the Facility. The Plan incorporate all existing Milestones contained in approved Work Plans, and all Milestone approved in future Work Plans immediately become incorporated into the Plan.

11.3. Milestones in the Plan reflect the priorities agreed to by the Parties through a process of "Risk Plus Other Factors" Priority Setting. Site activities have been prioritized by weighing and balancing a variety of factors including, but not limited to: (i) the DoD relative risk rankings for the Site; (ii) current, planned, or potential

uses of the Facility; (iii) ecological impacts; (iv) impacts on human health; (v) intrinsic and future value of affected resources; (vi) cost effectiveness of the proposed activities; (vii) environmental justice considerations; (viii) regulatory requirements; and, (ix) actual and anticipated funding levels. While Milestones should not be driven by budget targets, such targets should be considered when setting Milestones. Furthermore, in setting and modifying Milestones, the Parties agree to make good faith efforts to accommodate Federal fiscal constraints, which include budget targets established by the Army.

11.4. The Plan and its annual Amendments include:

- 11.4.1. A description of actions necessary to mitigate any immediate threat to human health or the environment;
- 11.4.2. A listing of all currently identified SSAs (if applicable), Operable Units (including Accelerated Operable Units (AOUs)), Interim Remedial Actions, Supplemental Response Actions, and Critical and Non-Time Critical Removal Actions covered or identified pursuant to this Agreement;
- 11.4.3 Activities schedules for Response Actions covered by the Plan, including at a minimum:
 - 11.4.3.1. Identification of any Primary Actions;
 - 11.4.3.2. All Deadlines;
 - 11.4.3.3. All Near Term Milestones;
 - 11.4.3.4. All Out Year Milestones;
 - 11.4.3.5. All Target Dates;
 - 11.4.3.6. Schedule for initiation of Remedial Designs, Interim Response Actions, Non-Time Critical Removal Actions, AOUs, and any initiation of other planned Response Action(s) covered by this Agreement; and,
 - 11.4.3.7. All Project End Dates.

11.5. The Army shall submit an Amendment to the Plan on an annual basis as provided in Section XII, *Budget Development and Amendment of Plan*. All Amendments to the Plan shall conform to all of the requirements set forth in this Section.

11.6. The Milestones established in accordance with this Section and Section XII, *Budget Development and Amendment of Plan*, remain the same unless otherwise agreed by the Parties, or unless changed in accordance with the Dispute Resolution procedures set out in Subsections 13.4.2 through 13.4.5 and 13.5.1. The Parties recognize that possible bases for requests for changes or extensions of the Milestones include but are not limited to (i) the identification of significant new site conditions at this installation; (ii) reprioritization of activities under this Agreement caused by

changing priorities or new site conditions elsewhere in the Army; (iii) reprioritization of activities under this Agreement caused by budget adjustments (e.g., rescissions, inflation adjustments, and reduced Congressional appropriations); (iv) an event of force majeure; (v) a delay caused by another party's failure to meet any requirement of this Agreement; (vi) a delay caused by the good faith invocation of Dispute Resolution or the initiation of judicial action; (vii) 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 (viii) any other event or series of events mutually agreed to by the Parties as constituting good cause.

11.7. The Deadlines established in the Plan and its Amendments shall be published by EPA.

XII. BUDGET DEVELOPMENT AND AMENDMENT OF PLAN

12.1. The Army, as a Federal agency, is subject to fiscal controls, hereinafter referred to as the Future Years Defense Plan (FYDP). The planning, programming, and budgeting process, hereinafter referred to as the Program Objective Memorandum (POM) process, is used to review total requirements for DoD programs and make appropriate adjustments within the FYDP for each program while adhering to the overall FYDP control. The Parties recognize that the POM process is a multi-year process. The Parties also agree that both Parties should be involved in the full cycle of POM activities as specified in this Agreement. Further, the Parties agree that each Party should consider the factors listed in Subsection 11.3, including Federal fiscal constraints as well as each of the other factors, in their priority-setting decisions. Initial efforts to close any gap between cleanup needs and funding availability shall be focused on the identification and implementation of cost savings.

12.2. Facility-Specific Budget Building

12.2.1. In order to promote effective involvement by the Parties in the POM process, the Parties will meet at the Project Manager level for the purpose of (1) reviewing the FYDP controls; (2) developing a list of requirements/Work to be performed at the Site for inclusion in the Army POM process; and, (3) participating in development of the Army submission to the proposed President's budget, based on POM decisions for the year currently under consideration. Unless the Parties agree to a different time frame, the Army, through the SSC, agrees to notify EPA within ten (10) days of receipt, at the Project Manager level, that budget controls have been received. Unless the Parties agree to a different time frame or agree that a meeting is not necessary, the Parties will meet, at the Project Manager level, within thirty (30) days of receiving such notification to discuss the budget controls. However, this consultation must occur at least ten (10) days prior to the SSC's initial budget submission to the U.S. Army Environmental Center (USAEC).

12.2.2. In the event that the Project Managers cannot agree on funding levels

required to perform all Work outlined in the Plan, the Parties agree to make reasonable efforts to informally resolve these disagreements, either at the immediate or secondary supervisor level; this would also include discussions, as necessary, with the USAEC. If agreement cannot be reached informally within a reasonable period of time, the Army shall resolve the disagreement, if possible with the concurrence of EPA, and notify EPA. If EPA and the Army do not concur in the resolution, the Army, through the SSC, will forward through the USAEC to Army Headquarters its budget request with the views of the party(ies) not in agreement and also inform Army Headquarters of the possibility of future enforcement action should the money requested not be sufficient to perform the Work subject to disagreement. In addition, if the Army's, through the SSC's, budget submission to the USAEC relating to the terms and conditions of this Agreement does not include sufficient funds to complete all Work in the existing Plan, such budget submission shall include supplemental reports that fully disclose the Work required by the existing Plan, but not included in the budget request due to fiscal controls (e.g., a projected budget shortfall). These supplemental reports shall accompany the cleanup budget that the Army, through the SSC, submits through its higher Headquarters levels until the budget shortfall has been satisfied. If the budget shortfall is not satisfied, the supplemental reports shall be included in the Army's budget submission to the DoD Comptroller. The Deputy Under Secretary of Defense (Installations and Environment) shall receive information copies of any supplemental reports submitted to the DoD Comptroller.

12.3. Army Budget for Clean Up Activities

12.3.1. The Army, through the SSC, shall forward to EPA documentation of the budget requests (and any supplemental reports) for the Site, as submitted by the Army, through the SSC, to the USAEC, and by the USAEC to the Army Headquarters, within 14 days after the submittal of such documentation to the Army Headquarters by the USAEC. If the Army proposes a budget request relating to the terms and conditions of this Agreement that impacts other installations, discussions with other affected EPA Regions and states regarding the proposed budget impact need to take place.

12.4. Amended Plan

12.4.1. No later than June 15 of each year after the initial adoption of the Plan, the Army shall submit to EPA and the State a draft Amendment to the Plan. When formulating the draft Amendment to the Plan, the Army, through the SSC, shall consider funding circumstances (including OMB targets/guidance) and "risk plus other factors" outlined in Subsection 11.3 to evaluate whether the previously agreed upon Milestones should change. Prior to proposing changes to Milestones in its annual Amendment to the Plan, the Army, through the SSC, will first offer to meet with EPA to discuss the proposed changes. The Parties will attempt to agree on Milestones before the Army, through the SSC, submits its annual Amendment by June 15, but failure to agree on such proposed changes does not modify the June 15 date, unless agreed by the Parties. Any proposed extensions or other changes to

Milestones must be explained in a cover letter to the draft Amendment to the Plan. The draft Amendment to the Plan should reflect any agreements made by the Parties during the POM process outlined in this Section. Resolution of any disagreement over adjustment of Milestones pursuant to this Subsection shall be resolved pursuant to this Subsection 12.4.

12.4.2. The Parties shall meet as necessary to discuss the draft Amendment to the Plan. The Parties shall use the consultation process contained in Section X, *Consultation*, except that neither of the Parties will have the right to use the extension provisions provided therein. Accordingly, comments on the draft Amendment will be due to the Army no later than forty five (45) days after receipt by EPA and the State of the draft Amendment. If either EPA or the State provide comments and are not satisfied with the draft Amendment during this comment period, the Parties and the State shall meet to discuss the comments within 15 days of the Army's receipt of comments on the draft Amendment. The draft final Amendment to the Plan will be due from the Army no later than 30 days after the end of the EPA and State comment period. During this 30-day time period, the Army will, as appropriate, make revisions and re-issue a revised draft herein referred to as the draft final Amendment. To the extent that Section X, *Consultation*, contains time periods differing from these time periods, this provision will control for consultation on the Amendment to the Plan.

12.4.3. If the Army proposes, in the draft final Amendment to the Plan, modifications of Milestones to which EPA has not agreed, those proposed modifications shall be treated as a request by the Army for an extension. Milestones may be extended during the Plan review process by following Subsections 12.4 and 12.5. All other extensions will be governed by Section XIII, *Extensions*. The time period for EPA to respond to the request for extension will begin on the date EPA receives the draft final Amendment to the Plan, and EPA shall advise the SSC in writing of their position on the request within thirty days. If EPA approves of the SSC's draft final Amendment, the document shall then await finalization in accordance with Subsections 12.4.6 and 12.5. If EPA denies the request for extension, then the Army may amend the Plan in conformance with EPA comments or seek and obtain a determination through the Dispute Resolution process established in Section XX, *Dispute Resolution*, within 21 days of receipt of notice of denial. Within 21 days of the conclusion of the Dispute Resolution process, the Army shall revise and reissue, as necessary, the draft final Amendment to the Plan. If EPA initiates a formal request for a modification to the Plan to which the Army does not agree, EPA may initiate Dispute Resolution as provided in Section XX, *Dispute Resolution*, with respect to such proposed modification. In resolving a dispute, the persons or person resolving the dispute shall give full consideration to the bases for changes or extensions of the Milestones referred to in Subsection 11.6 asserted to be present, and the facts and arguments of each of the Parties.

12.4.4. Notwithstanding Subsection 12.4.3, if the Army proposes, in the draft final Amendment to the Plan, modifications of Project End Dates which are intended to reflect the time needed for implementing the remedy selected in the Record of Decision but to which either EPA has not agreed, those proposed modifications shall not be treated as a request by the Army for an extension, but consistent with Section XX, *Dispute Resolution*, EPA may initiate Dispute Resolution with respect to such Project End Date.

12.4.5. In any dispute under this Section, the time periods for the standard Dispute Resolution process contained in Subsections 20.2, 20.4, and 20.5 of Section XX, *Dispute Resolution*, shall be reduced by half in regard to such dispute, unless the Parties agree to dispute directly to the Senior Executive Committee (SEC) level.

12.4.6. The Army shall finalize the draft final Amendment as a final Amendment to the Plan consistent with the consent of EPA, or in the absence of consent, in accordance with the final decision of the Dispute Resolution process. The draft final Amendment to the Plan shall not become final until 21 days after the Army receives official notification of Congress' authorization and appropriation of funds if funding is sufficient to complete Work in the draft final Plan or, in the event of a funding shortfall, following the procedures in Subsection 12.5. However, upon approval of the draft final Amendment or conclusion of the Dispute Resolution process, the Parties shall implement the Plan while awaiting official notification of Congress' authorization and appropriation.

12.4.7. Although the State is not a Party to this Agreement, it shall nevertheless be entitled to participate in the consultation process for the Amendment to the Plan as if it were a Party; however, this shall not include a right to Dispute Resolution.

12.5. Resolving Appropriations Shortfalls

12.5.1. After authorization and appropriation of funds by Congress and within 21 days after the Army has received official notification of SSC's allocation based on the current year's Environmental Restoration, Army (ER,A) Account, the Army shall determine if planned Work (as outlined in the draft final Amendment to the Plan) can be accomplished with the allocated funds. (1) If the allocated funds are sufficient to complete all planned Work for that Fiscal Year and there are no changes required to the draft final Amendment to the Plan, the Army shall immediately forward a letter to EPA and the State indicating that the draft final Amendment to the Plan has become the final Amendment to the Plan. (2) If the Army determines within the 21-day period specified above that the allocated funds are not sufficient to accomplish the planned Work for the Site (an appropriations shortfall), the Army shall immediately notify EPA and the State. The Project Managers shall meet within thirty (30) days to determine if planned Work (as outlined in the draft final Amendment to the Plan) can be accomplished through: 1) rescoping or rescheduling activities in a manner that does not cause previously agreed upon Near Term Milestones and Out Year Milestones to be missed; or 2) developing and implementing new cost-saving

measures. If, during this thirty (30) day discussion period, the Parties determine that rescoping or implementing cost-saving measures are not sufficient to offset the appropriations shortfall such that Near Term Milestones, Out Year Milestones, and Project End Dates should be modified, the Parties shall discuss these changes and develop modified Milestones. Such modifications shall be based on the "Risk Plus Other Factors" prioritization process discussed in Subsection 11.3, and shall be specifically identified by the SSC. The Army shall submit a new draft final Amendment to the Plan to EPA within 30 days of the end of the 30-day discussion period. In preparing the revised draft final Amendment to the Plan, the Army shall give full consideration to EPA and State input during the 30-day discussion period. If the EPA concurs with the modifications made to the draft final Amendment to the Plan, EPA shall notify the Army and the revised draft final Amendment shall become the final Amendment. In the case of modifications of Milestones due to appropriations shortfalls, those proposed modifications shall, for purposes of Dispute Resolution, be treated as a request by the Army for an extension, which request is treated as having been made on the date that EPA receives the new draft final Plan or draft final Amendment to the Plan. EPA and the State shall advise the Army in writing of their respective positions on the request within 21 days. The Army may seek and obtain a determination through the Dispute Resolution process established in Section XX, *Dispute Resolution*. The Army may invoke Dispute Resolution within fourteen days of receipt of a statement of nonconcurrence with the requested extension. In any dispute concerning modifications under this Section, EPA or the Army will submit the dispute directly to the SEC level, unless the Parties agree to utilize the standard Dispute Resolution process, in which case the time periods for the Dispute Resolution process contained in Subsections 20.2, 20.4, and 20.5 of Section XX, *Dispute Resolution*, shall be reduced by half in regard to such dispute. Within 21 days after the conclusion of the Dispute Resolution process, the Army shall revise and reissue, as necessary, the final Amendment to the Plan.

12.5.2. It is understood by all Parties that the Army will Work with representatives of EPA to reach consensus on the reprioritization of Work made necessary by any annual appropriations shortfalls or other circumstances as described in Subsection 12.4. This may also include discussions with other EPA Regions and states with installations affected by the reprioritization; the Parties may participate in any such discussions with other states.

12.6. Public Participation

12.6.1 In addition to any other provision for public participation contained in this Agreement, the development of the Plan, including its annual Amendments, shall include participation by members of the public interested in this action. The Army must ensure that the opportunity for such public participation is timely; but this Subsection 12.6 shall not be subject to Section XX, *Stipulated Penalties*.

12.6.2. The Parties will meet, after seeking the views of the general public, and determine the most effective means to provide for participation by members of the

public interested in this action in the POM process and the development of the Plan and its annual Amendments. The "members of the public interested in this action" may be represented by inclusion of a RAB or technical review committee or by other appropriate means.

12.6.3. The Army shall provide timely notification under Section 12.5.1, regarding allocation of ER,A, to the members of the public interested in this action.

12.6.4. The Army shall provide opportunity for discussion under Sections 12.1, 12.2, 12.3, and 12.4 to the members of the public interested in this action.

12.6.5. The Army shall ensure that public participation provided for in this Subsection 12.6 complies with Executive Order 12898, *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations*.

XIII. EXTENSIONS

13.1. Necessary and appropriate adjustments to Milestones and Schedules may be proposed by either Party. A Milestone or Schedule shall be extended upon receipt of a timely request for extension and when good cause exists for the requested extension as described in Subsection 13.2. Any request for extension by the Army shall be submitted in writing and shall specify:

- 13.1.1. The Milestone or Schedule that is sought to be extended;
- 13.1.2. The length of the extension sought;
- 13.1.3. The good cause for the extension; and
- 13.1.4. Any related Milestone or Schedule that would be effected if the extension were granted.

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

- 13.2.1. An event of Force Majeure, as defined in Section XXII, *Force Majeure*, of this Agreement;
- 13.2.2. A delay caused by the other Party's failure to meet any requirement of this Agreement;
- 13.2.3. A delay caused by the good faith invocation of Dispute Resolution or the initiation of judicial action;
- 13.2.4. A delay caused, or that is likely to be caused, by the grant of an extension in regard to another Milestone or Schedule;
- 13.2.5. The identification of significant new Site conditions during the performance of a Remedial Investigation; and
- 13.2.6. Any other event or series of events mutually agreed to by the Parties as constituting good cause.

13.3. Absent agreement of the Parties with respect to the existence of good cause,

either Party may seek and obtain a determination through Section XX, *Dispute Resolution*, that good cause exists.

13.4. Within fourteen (14) days from receipt of a request for an extension of a Milestone or Schedule, the receiving Party shall advise the requesting Party in writing of its respective position on the request. Any failure by the receiving Party to respond within the 14-day period shall be deemed to constitute concurrence in the request for an extension. If a Party does not concur in the requested extension, it shall include in its statement of nonconcurrence an explanation of the basis for its position.

13.5. If there is consensus between the Parties that the requested extension is warranted, the requesting Party shall extend the effected Milestone or Schedule accordingly. If there is no consensus between the Parties as to whether all or part of

the requested extension is warranted, the Milestone or Schedule shall not be extended except in accordance with a determination resulting from Dispute Resolution.

13.6. Within seven (7) days of receipt of a statement of nonconcurrence with the requested extension, EPA or the Army may invoke Dispute Resolution in accordance with Section XX, *Dispute Resolution*.

13.7. A written, timely and good faith request by the Army for an extension shall toll any assessment of stipulated penalties or application of judicial enforcement of the effected Milestone or Schedule until a decision is reached on whether the requested extension will be approved. If Dispute Resolution is invoked and the requested extension denied, stipulated penalties may be assessed and may accrue from the date of the original Milestone 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 Milestone or Schedule as most recently extended.

XIV. PROJECT MANAGERS

14.1. On or before the effective date of this Agreement, EPA and the Army shall each designate a Project Manager and notify the other Party and the State of the name and address of its Project Manager. The Parties' Project Managers shall be responsible for assuring proper implementation of all Work performed under the terms of the Agreement. To the maximum extent practicable, communications between the Army and EPA, and from the Army and EPA to the State, on all documents, including reports, comments and other correspondence concerning the activities performed pursuant to this Agreement, shall be directed through the Project Managers. The Parties may designate an Alternate Project Manager to exercise the authority of the Project Manager in his or her absence.

14.2. The Parties may change their respective Project Managers. Such change shall be accomplished by notifying the other Party and the State, in writing, within five (5) days of the change and prior to the new Project Manager exercising his or her delegated authority.

14.3. The Parties' Project Managers and a designated representative of the State shall meet or confer as provided in Section X, *Consultation*, of this Agreement. In addition to reviewing and discussing the development of Primary and Secondary Documents, the Project Managers shall at these meetings oversee the performance of environmental monitoring at the Site, review SSP, RI/FS or RD/RA progress, identify opportunities for early/interim actions and attempt to resolve disputes informally. At least one week prior to each such scheduled Project Manager meeting, the Army will provide to the EPA Project Manager and the State a draft agenda and summary of the status of the Work subject to this Agreement.

14.4. These status reports shall include, when applicable:

- 14.4.1. A summary of all data received and not previously provided by the Army during the reporting period consistent with the limitations of Subsection 31.1 of this Agreement;
- 14.4.2. A summary of all activities completed pursuant to this Agreement since the last Project Manager meeting as well as such actions and plans that are scheduled for the upcoming ninety (90) days; and
- 14.4.3. A description of any delays, the reasons for such delays, anticipated delays, concerns over possible Milestone or Plan implementation or problems that arise in the execution of any Work required by this Agreement and expected to be executed during the quarter and any steps that were or will be taken to alleviate the delays or problems.

14.5. The Army will send the minutes of each such Project Manager meeting to the EPA Project Manager and the State within twenty-one (21) days after the meeting. Any documents requested during the meeting will be provided in a timely manner.

14.6. A Party's Project Manager may recommend and request minor field modifications to the Work performed pursuant to this Agreement, or in techniques, procedures or designs utilized in carrying out this Agreement. The minor field modifications proposed under this Subsection must be approved orally by the Parties' Project Managers to be effective. No such Work modifications can be so implemented if an increase in contract cost will result without the authorization of the Army Contracting Officer, as appropriate. If agreement cannot be reached on the proposed additional Work or modification to Work, Dispute Resolution shall be invoked by the Party requesting the modification by submitting a written statement to the other Party in accordance with Section XX, *Dispute Resolution*, of this

Agreement. If the Parties agree to the modification, within five (5) business days following a modification made in accordance with this Subsection, the Project Manager who requested the modification shall prepare a written memorandum detailing the modification and the reasons therefor and shall provide or mail a copy of the memorandum to the Project Manager of the other Party for signature and return. The Project Manager who requested the modification shall also provide or mail a copy of the memorandum to the State.

14.7. Modifications of Work not provided for in Subsection 14.6 of this Agreement must be approved by the Parties' Project Managers to be effective. If agreement cannot be reached on the proposed modification to Work, Dispute Resolution shall be invoked. Within five (5) business days following a modification made in accordance with this Subsection, 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 Project Manager of the other Party for signature and return. The Project Manager who requested the modification shall also provide or mail a copy of the memorandum to the State.

14.8. Each Party's Project Manager shall be responsible for assuring that all communications received from the other Project Managers or the State are appropriately disseminated to and processed by the Party that each represents.

14.9. The Parties shall transmit Primary and Secondary Documents and all notices and notifications required herein by next day mail, overnight delivery, hand delivery, facsimile or certified letter to the persons specified in Subsections 14.10 and 14.11 below by the Deadlines established under Section XI, *Deadlines and Contents of Site Management Plan*, and Section XII, *Budget Development and Amendment of Plan*. Any document or notice to be transmitted by a certain date will be considered as transmitted on time if: (1) it is provided to a carrier on a next day mail or overnight delivery basis no later than the day before it is due to be delivered according to the requirements of this Agreement; (2) it is hand-delivered by the due date; or (3) it is sent by certified mail return receipt requested no later than two days before it is due to be delivered according to the requirements of this Agreement. Any other means of transmission must arrive on the due date to be considered as timely delivered. If a facsimile is used for transmission of a Primary or Secondary Document, a hard copy of the document must also be provided to the other Party. Time limitations shall commence upon receipt. The Army shall provide the EPA with five (5) copies of each Primary and Secondary Document and the State with one (1) copy of each Primary and Secondary Document.

14.10. Notice to the individual Parties shall be provided under this Agreement to the following addresses:

14.10.1. For the Army:

John J. McHugh	James B. Connolly
Director, ESHO	Environmental Scientist
Environmental, Safety, and Health Office, IMNE-SSC-EN	
Soldier Systems Center	
Kansas Street	
Natick, MA 01760-5049	

14.10.2. For EPA:

Christine Williams
U. S. Environmental Protection Agency, Region 1
One Congress Street, Suite 1100
Mail Code: HBT
Boston, MA 02114-2023

14.11. Notice to the State shall be provided under this Agreement to the following address:

14.11.1. Robert Campbell
Federal Facilities
Bureau of Waste Site Cleanup
Massachusetts Department of Environmental Protection
7th Floor, One Winter Street
Boston, MA 02108

14.12. Nothing in this Section shall be construed to interfere with or alter the internal organization or procedures of a Party, including, without limitation, signature authority.

14.13. The Project Manager for the Army shall represent the Army with regard to the day-to-day field activities at the Site. The Army Project Manager or other designated employee or agent of the Army shall be physically present at the Site or available to supervise Work during implementation of all the Work performed at the Site pursuant to this Agreement. The absence of the EPA Project Manager from the Site shall not be cause for Work stoppage or delay, unless the Project Managers agree otherwise in writing.

14.14. The authority of the Parties' Project Managers shall include, but not be limited to:

14.14.1. Taking samples and ensuring that sampling and other field work is performed in accordance with the terms of any final Work Plans and QA/QC Plan;

- 14.14.2. Observing, requesting photographs to be taken by a designated representative of SSC and making such other reports on the progress of the Work as the Parties' Project Managers deem appropriate, subject to the limitations set forth in Section XVI, *Access*, of this Agreement;
- 14.14.3. Reviewing sampling data, records, files, and documents relevant to the Agreement, subject to the limitations set forth in Section XXX, *Record Preservation*, of this Agreement; and
- 14.14.4. Determining the form and specific content of the Project Manager meetings.

14.15. If any event occurs or has occurred that may delay or prevent the performance of any obligation under this Agreement, whether or not caused by a Force Majeure event, either Party shall notify by telephone the other Party's Project Managers and the State within two (2) working days of when the Party first became aware that the event might cause a delay. If the Party intends to seek an extension of a Deadline or Schedule because of the event, the procedures of Section XIII, *Extensions*, of this Agreement shall apply.

XV. EXEMPTIONS

15.1. The Parties recognize that the President may issue an Executive Order, as needed to protect national security interests, regarding Response Actions at SSC, pursuant to CERCLA Section 120(j), 42 U.S.C. § 9620(j). Such an Executive Order may exempt SSC or any portion thereof from the requirements of CERCLA for a period of time not to exceed one (1) year after the issuance of that Order. This Executive Order may be renewed. The Army shall obtain access to and perform all actions required by this Agreement within all areas inside those portions of SSC that are not the subject of or subject to any such Executive Order issued by the President.

XVI. ACCESS

16.1. EPA and/or its representatives shall have the authority to enter the Site at all reasonable times for the purposes consistent with CERCLA Section 104(e), 42 U.S.C. § 9604(e), and the provisions of this Agreement. Such authority shall include but not be limited to: inspecting records, logs, contracts, and other documents relevant to implementation of this Agreement; reviewing and monitoring the progress of the Army and its contractors and lessees in carrying out the activities under this Agreement; conducting, with prior notice to the Army, tests that EPA deems necessary; assessing the need for planning additional Response Actions at the Site; and verifying data or information submitted to EPA. The Army recognizes that the State has those rights provided by CERCLA Section 104(e), 42 U.S.C. § 9604(e).

The Army shall honor all reasonable requests for access to the Site made by EPA upon presentation of credentials showing the bearer's identification and that he/she is an employee or agent of EPA and is a United States citizen. The Army Project Manager or his/her designee will provide briefing information, coordinate access and escort to restricted or controlled-access areas, arrange for installation passes, and coordinate any other access requests that arise. The Army shall use its best efforts to ensure that conformance with the requirements of this Subsection 16.1 do not delay access.

16.2. The rights granted in Subsections 16.1 and 16.4 to EPA regarding access shall be subject to regulations and statutes, including all applicable SSC security regulations, as may be necessary to protect national security information ("classified information") as defined in Executive Order 12958, and comply with SSC's health and safety requirements. Such requirements shall be applied so as not to unreasonably hinder EPA from carrying out its responsibilities and authority pursuant to CERCLA and this Agreement.

16.3. The Army shall accompany EPA during EPA oversight visits to the Site. The Army shall provide an escort whenever EPA requires access to restricted areas of SSC for purposes consistent with CERCLA and the provisions of this Agreement. EPA shall provide reasonable notice (which may, if practical, be 48 hours advance notice) to the Army Project Manager to request any necessary escorts for such restricted areas.

16.4. EPA shall have the right to enter all areas of the Site that are entered by contractors performing Work under this Agreement.

16.5. Upon a denial of any aspect of access, the Army shall provide an immediate explanation of the reason for the denial, including reference to the applicable regulations, and upon request, a copy of such regulations. Within forty-eight (48) hours, the Army shall provide a written explanation for the denial. To the extent possible, the Army shall expeditiously provide a recommendation for accommodating the requested access in an alternate manner.

16.6. To the extent that activities pursuant to this Agreement must be carried out on other than Army property, the Army shall use its best efforts, including its authority under CERCLA Section 104, 42 U.S.C. § 9604, to obtain access agreements from the owners that shall provide reasonable access for the Army and EPA and their representatives. Although the Army may choose to do so, nothing in this Section requires the Army to purchase easements or pay for access to such non-Army property. In the event that such access is not obtained within a reasonable time to avoid interference with ongoing Response Actions, the Army shall notify EPA regarding the lack of the necessary access agreements and describe the efforts undertaken to obtain such access agreements. EPA may thereafter, consistent with its authority, assist the Army in obtaining access. The Army shall submit to EPA and

the State appropriate modifications to any Response Action affected by the inability to obtain proper access.

16.7. With respect to property referred to in Subsection 16.6, upon which monitoring wells, pumping wells, or other Response Actions are to be located, the Army shall use its best efforts to ensure that any access agreements shall provide for the continued right of entry for the Parties for the performance of such Response Actions. In addition, any access agreement shall provide: (i) that no conveyance of title, easement, or other interest in such property shall be consummated without the continued right of entry; (ii) that the owners or lessees of any such property shall notify EPA and the Army by certified mail, at least sixty (60) days prior to any conveyance of an interest in the property, of the property owner's or lessee's intent to convey, and of the provisions made for the continued operation of the monitoring wells, treatment facilities, or other Response Actions pursuant to this Agreement; and (iii) that EPA shall have identical access to such property as the Army.

16.8. The Army shall ensure that all Response Actions, including ground water rehabilitation measures and Remedial Actions of any kind, that are undertaken pursuant to this Agreement on any areas that (i) are presently owned by the United States and that are occupied by the Army or leased by the Army to any other entity, or (ii) are in any manner under the control of the Army or any lessees or agents of the Army, shall not be impeded or impaired in any manner by any transfer of title or change in occupancy or any other change in circumstances of such areas.

16.9. Nothing herein shall be construed as limiting EPA's or the State's statutory authority for access or information gathering.

16.10. The Army shall take appropriate steps to ensure that all activities and Response Actions to be undertaken pursuant to this Agreement will not be impeded or impaired by any transaction involving an interest or right in real property relating to SSC, including any fixtures located thereon owned by the United States. Such steps shall include but not be limited to including provisions regarding the following in any deed, lease or other instrument evidencing such transaction:

- 16.10.1. Notification of the existence of this Agreement;
- 16.10.2. That the Parties shall have the rights of access to and over such property that are set forth in Subsection 16.1 of this Agreement;
- 16.10.3. Provisions for compliance with applicable health and safety plans, and for the operation of any Response Actions on such property (including but not limited to monitoring wells, pumping wells and treatment facilities);
- 16.10.4. That no subsequent transaction relating to such property shall be made without provisions in the documents evidencing such

transaction for such rights of access, for compliance with applicable health and safety plans, and for the operation of any Response Actions on such property (including but not limited to monitoring wells, pumping wells and treatment facilities); and

- 16.10.5. That those involved in subsequent transactions relating to such property shall provide copies of the instrument evidencing such transaction to each of the Parties by certified mail within fourteen (14) days after the effective date of such transaction.

16.11. The Army shall provide to EPA a copy of such provisions, as they are proposed in the Finding of Suitability to Transfer, Finding of Suitability to Lease or similar document that is prepared in support of the disposal or lease of such interest or right in real property, at least thirty (30) days prior to the first use of such provisions in such deed, lease or other instrument. Such provisions shall meet the requirements of Subsections 16.10.1 through 16.10.5 above and shall include any use restrictions required in a ROD(s) for the protection of human health and the environment. In addition, in cases where the Army is a party to such a transaction, it shall provide to EPA copies of any executed deed, lease or other instrument within fourteen (14) days after the effective date of such deed, lease or other instrument.

XVII. PERMITS

17.1. The Army shall be responsible for obtaining all Federal, State and local permits that are necessary for the performance of all Work under this Agreement.

17.2. The Parties recognize that under CERCLA Sections 121(d) and 121(e)(1), 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, where such Response Actions are selected and carried out in accordance with CERCLA, are exempt from the procedural requirement to obtain Federal, State, or local permits. All activities must, however, comply with all the substantive Federal and State standards, requirements, criteria, or limitations that are contained in the applicable Federal or State permit regulations.

17.3. When the Army proposes a Response Action, other than an emergency Removal Action, to be conducted entirely on the Site, that in the absence of CERCLA Section 121(e)(1), 42 U.S.C. § 9621(e)(1), and the NCP, would require a Federal, State or local permit, the Army shall include in its draft ROD or removal memorandum:

- 17.3.1. Identification of each permit that would otherwise be required;
- 17.3.2. Identification of the substantive standards, requirements, criteria, or limitations that would have had to have been met to obtain each such permit; and

17.3.3. An explanation of how the Response Action proposed will meet the standards, requirements, criteria or limitations identified immediately above.

17.4. Subsection 17.2 above is not intended to relieve the Army from the requirement(s) of obtaining a permit whenever it proposes a Response Action involving the shipment or movement of a Hazardous Substance, pollutant, or contaminant off the Site or in any other circumstances where the exemption for which CERCLA Section 121(e)(1), 42 U.S.C. § 9621(e), provides does not apply.

17.5. The Army shall notify EPA and the State in writing of any permits required for any off-Site activities it plans to undertake as soon as it becomes aware of the requirement. The Army shall apply for all such permits and provide EPA and the State with copies of all such permits, applications, and other documents related to the permit process and final permits.

17.6. The Army agrees to notify EPA of its intention to propose modifications to this Agreement to obtain conformance with a permit, or lack thereof, if a permit or other authorization that is necessary for implementation of this Agreement is not issued, or is issued or renewed in a manner that is materially inconsistent with the requirements of this Agreement. Notification by the Army of its intention to propose modifications shall be submitted within sixty (60) 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 sixty (60) days from the date it submits its notice of intention to propose modifications to this Agreement, the Army shall submit to EPA its proposed modifications to this Agreement with an explanation of its reasons in support thereof.

17.7. EPA shall review the Army's proposed modifications to this Agreement in accordance with Section XXXVI, *Amendment of Agreement*, of this Agreement. If the Army submits proposed modifications prior to a final determination of any appeal taken on a permit needed to implement this Agreement, EPA may elect to delay review of the proposed modifications until after such final determination is entered.

17.8. During any appeal by any party of any permit required to implement this Agreement or during review of any proposed modification(s) to such permit, the Army shall continue to implement those portions of this Agreement that can be reasonably implemented independent of final resolution of the permit issue(s) under appeal. However, as to Work that cannot be so implemented, any corresponding Milestone or Schedule shall be subject to Section XIII, *Extensions*, of this Agreement.

17.9. Nothing in this Agreement shall be construed to affect the Army's obligation to comply with any RCRA permit(s) that SSC may already have or be issued in the future.

XVIII. REMOVAL AND EMERGENCY ACTIONS

18.1. The Army shall provide EPA and the State with timely notice of any proposed Removal Action.

18.2. Nothing in this Agreement shall alter the Army's, the State's, or EPA's authority with respect to Removal Actions conducted pursuant to CERCLA Section 104, 42 U.S.C. § 9604, and Executive Order 12580.

18.3. If during the course of performing the activities required under this Agreement, either Party identifies an actual or a substantial threat of a Release of any Hazardous Substance, pollutant, or contaminant at or from the Site, that Party may propose that the Army undertake Removal Actions to abate the danger and threat that may be posed by such actual or threatened Release. All Removal Actions conducted at the Site shall be conducted in a manner consistent with this Agreement, CERCLA, Executive Order 12580, DERP, including provisions for timely notification and consultation with EPA and appropriate State and local officials, and the NCP and applicable EPA Guidance. In addition, all Removal Actions at the Site shall, to the extent practicable, contribute to the efficient performance of any long-term Remedial Action with respect to the Release(s) or threatened Release(s) concerned. Such proposals for the Army to undertake Removal Actions at the Site shall be submitted to the EPA and the State and shall include:

- 18.3.1. Documentation of the actual or threatened Release of Hazardous Substances, pollutants, or contaminants at or from the Site;
- 18.3.2. Documentation that the actions posed will abate the danger and threat that may be posed by such actual or threatened Release; and
- 18.3.4. Documentation that the action is consistent with the NCP and, to the extent practicable, contributes to the efficient performance of any long-term Remedial Action with respect to such actual or threatened Release.

18.4. EPA shall expedite all reviews of these proposals to the maximum extent practicable.

18.5. Where required by CERCLA, the NCP and applicable EPA Guidance, for each Removal Action, the Army shall also submit the following Secondary

Documents to EPA and the State in accordance with Subsection 10.4 of this Agreement:

- 18.5.1. An Engineering Evaluation/Cost Analysis ("EE/CA") or its equivalent. The EE/CA or its equivalent shall contain an analysis of removal alternatives for a site. The screening of alternatives shall be based on criteria as provided in CERCLA and the NCP, such as cost, feasibility, and effectiveness;
- 18.5.2. A Non-Time Critical Removal Action Plan and Target Date for the proposed action; and
- 18.5.3. A Removal Action Memorandum.

18.6. EPA and the State shall have the opportunity to review and comment on these Secondary Documents in accordance with Subsection 10.4.1 of this Agreement.

18.7. The opportunity for review and comment for proposed Removal Actions, as stated in Subsection 18.3 above, may not apply if the action is in the nature of an emergency Removal Action taken because a Release or threatened Release may present an imminent and substantial endangerment to human health or the environment. The Army may determine that review and comment, as stated in Subsection 18.3 above, is impractical. However, in the case of an emergency Removal Action, the Army shall provide EPA with oral notice as soon as possible and written notice within forty-eight (48) hours after the Army determines that an emergency Removal Action is necessary. Within seven (7) days after initiating an emergency Removal Action, the Army shall provide EPA and the State with the written basis (factual, technical and scientific) for such action and any available documents supporting such action. Within thirty (30) days of completion of an emergency Removal Action, the Army shall furnish EPA and the State with an Action Memorandum addressing the information provided in the oral notification, whether and to what extent the action varied from the description of the action in the written notice provided in accordance with this Section, and any other information required by CERCLA or the NCP, and in accordance with EPA Guidance for such actions. Such actions may be conducted at any time, either before or after the issuance of a ROD.

18.8. If an imminent health hazard (e.g., a drinking water well containing any contaminant at concentrations greater than any Federal or State drinking water action levels) or an activity conducted pursuant to this Agreement that is creating a danger to the public health or welfare or the environment is discovered by either Party during the efforts covered by this Agreement, the discovering Party will notify the other Party, and the Army will take immediate action to promptly notify all appropriate State and local agencies, potentially affected persons and officials in accordance with 10 U.S.C. § 2705(a). The Army will expeditiously take appropriate measures to protect all persons affected.

18.9. All activities pursuant to this Agreement will be performed in accordance with the Health and Safety Plan and will be conducted so as to minimize the threat to the surrounding public.

18.10 Work Stoppage: In the event that either Party determines that activities conducted pursuant to this Agreement will cause or otherwise be threatened by a situation described in Subsection 18.8 above, the Party may propose the termination of such activities. If the Parties mutually agree, the activities shall be stopped for such period of time as required to abate the danger. In the absence of mutual agreement, the activities shall be stopped in accordance with the proposal, and the matter shall immediately be referred to the Director of EPA New England's Office of Site Remediation and Restoration for a Work stoppage determination in accordance with Subsection 20.9 of this Agreement.

XIX. PERIODIC REVIEW

19.1. Consistent with CERCLA Section 121(c), 42 U.S.C. § 9621(c), and in accordance with this Agreement, if the selected Remedial Action for any Operable Unit results in any Hazardous Substance, pollutants or contaminants remaining at the Site, the Parties shall review the Remedial Action program for that Operable Unit at least every five (5) years after the initiation of the first Remedial Action at the Site to assure that human health and the environment are being protected by the Remedial Action being implemented. As part of this review, the Army shall report the findings of the review to EPA and the State upon its completion.

19.2. If upon such review it is the conclusion of either Party that additional action or modification of such Remedial Action is appropriate at the Site in accordance with CERCLA Section 104 or 106, 42 U.S.C. § 9604 or 9606, the Army shall implement such additional or modified action in accordance with Section IX, *Work to be Performed*, of this Agreement.

19.3. Any dispute between the Parties regarding the need for or the scope of additional action or modification to a Remedial Action shall be resolved in accordance with Section XX, *Dispute Resolution*, of this Agreement, and such resolution shall be enforceable hereunder.

19.4. Any additional action or modification agreed upon in accordance with this Section shall be made a part of this Agreement.

19.5. EPA reserves the right to exercise any available authority to seek the performance of additional Work that arises from a Periodic Review, pursuant to applicable law.

19.6. Except for emergency Removal Actions, which shall be governed by Section XVIII, *Removal and Emergency Actions*, of this Agreement, any additional Response Actions determined necessary as a result of a Periodic Review shall be implemented as Supplemental Response Actions in accordance with Subsection 9.10 of this Agreement.

19.7. When the final ROD for an Operable Unit contains the requirement for the development and implementation of a Long-Term Monitoring Plan because the selected Remedial Action results in any Hazardous Substance, pollutants or contaminants remaining at the Site, the Long-Term Monitoring Plan shall be submitted in accordance with Section X, *Consultation*, of this Agreement.

XX. DISPUTE RESOLUTION

20.1. Except as specifically set forth elsewhere in this Agreement, if a dispute arises under this Agreement, the procedures of this Section shall apply. All Parties to this Agreement shall make reasonable efforts to informally resolve disputes at the Project Manager or immediate supervisor level. If resolution cannot be achieved informally, the procedures of this Section shall be implemented to resolve a dispute.

20.2. Within thirty (30) days after: (1) the period established for review of a draft final Primary Document pursuant to Section X, *Consultation*, 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 technical, legal or factual information the disputing Party is relying upon to support its position. The Parties may extend this 30 day period by mutual agreement. Such agreement shall be confirmed in writing by the Project Managers. If a Party does not agree to extend this 30 day period, the disputing Party shall submit such written statement of dispute to the other Party at the end of this 30 day period. If a Party does not agree to extend any extension period mutually agreed upon by the Parties in accordance with this Subsection, the disputing Party shall submit such written statement of dispute to the other Party at the end of such mutually agreed upon extension period.

20.3. Prior to any Party's issuance of a written statement of dispute, the disputing Party shall engage the other Party 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. The Parties may by mutual agreement extend a Schedule or Deadline affected by the decision of such informal Dispute Resolution. Such agreement shall be confirmed in writing by the Project Managers.

20.4. The 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 (SES or equivalent) or be delegated the authority to participate on the DRC for the purposes of Dispute Resolution under this Agreement. The EPA representative on the DRC is the Office of Site Remediation and Restoration Office Director of EPA New England. The Army's designated member is the Garrison Manager. 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 Section XIV, *Project Managers*, of this Agreement.

20.5. 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.

20.6. The SEC will serve as the forum for resolution of disputes for which agreement has not been reached by the DRC. The EPA representative on the SEC is the Regional Administrator of EPA Region 1. The Army's representative on the SEC is the Director, Northeast Regional Office, Installation Management Agency. 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, the EPA Region 1 Regional Administrator shall issue a written position on the dispute. The Secretary of the Army may, within fourteen (14) days of the Regional Administrator's issuance of EPA's position, issue a written notice elevating the dispute to the Administrator of EPA for resolution in accordance with all applicable laws and procedures. In the event that the Army elects not to elevate the dispute to the Administrator within the designated fourteen (14) day escalation period, the Army shall be deemed to have agreed with Regional Administrator's written position with respect to the dispute.

20.7. Upon escalation of a dispute to the Administrator of EPA pursuant to Subsection 20.6, the Administrator will review and resolve the dispute within twenty-one (21) days. Upon request, and prior to resolving the dispute, the EPA Administrator shall meet and confer with the Army's Secretariat Representative to discuss the issue(s) under dispute. Upon resolution, the Administrator shall provide the Army with a written final decision setting forth resolution of the dispute. The duties of the Administrator set forth in this Section shall not be delegated.

20.8. The pendency of any dispute under this Section 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 that are not affected by the dispute shall continue and be completed in accordance with the applicable schedule.

20.9. When Dispute Resolution is in progress, Work affected by the dispute will immediately be discontinued if the Office of Site Remediation and Restoration Office Director for EPA New England requests, in writing, that Work related to the dispute be stopped because, in 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. To the extent possible, EPA shall consult with the Army prior to initiating a Work stoppage request. After stoppage of Work, if the Army believes that the Work stoppage is inappropriate or may have potential significant adverse impacts, the Army may meet with the Office Director to discuss the Work stoppage. Following this meeting, and further consideration of the issues, the Office Director will issue, in writing, a final decision with respect to the Work stoppage. The final written decision of the Office 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 Army.

20.10. Within twenty-one (21) days of resolution of a dispute pursuant to the procedures specified in this Section, 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.

20.11. Resolution of a dispute pursuant to this Section of the Agreement constitutes a final resolution of any dispute arising under this Agreement. All Parties shall abide by all terms and conditions of any final resolution of dispute obtained pursuant to this Section of this Agreement.

XXI. STIPULATED PENALTIES

21.1. In the event that the Army fails to submit a Primary Document to 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 Interim or final Response Action, 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 Subsection occurs.

21.2. Upon determining that the Army has failed in a manner set forth in Subsection 21.1, 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 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.

21.3. 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:

- 21.3.1. The facility responsible for the failure;
- 21.3.2. A statement of the facts and circumstances giving rise to the failure;
- 21.3.3. 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;
- 21.3.4. A statement of any additional action taken by or at the facility to prevent recurrence of the same type of failure; and
- 21.3.5. The total dollar amount of the stipulated penalty assessed for the particular failure.

21.4. Stipulated penalties assessed pursuant to this Section 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 DoD.

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

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

21.7. 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 Section.

XXII. FORCE MAJEURE

22.1. 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 Section XXVII, *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.

22.2. When circumstances which may delay or prevent the completion of the Army's obligation under this Agreement, are caused by a Force Majeure event, the Army shall notify the EPA Project Manager and the State orally of the circumstances within a reasonable time but no longer than seventy-two (72) hours after the Army first becomes aware of these circumstances. Within fifteen (15) days of the oral notification, the Army shall supply to EPA and the State in writing an explanation of the cause(s) of any actual or expected delay and the anticipated duration of any delay. The Army shall exercise its best efforts to avoid or minimize any such delay and any effects of such delay.

XXIII. ENFORCEABILITY

23.1. The Parties agree that:

- 23.1.1. Upon the effective date of this Agreement, any standard, regulation, condition, requirement or order that 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;
- 23.1.2. 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;
- 23.1.3. all terms and conditions of this Agreement which relate to Interim or final Remedial Actions, including corresponding timetables, Deadlines or Schedules, and all Work associated with the Interim 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 310(c) and 109 of CERCLA; and
- 23.1.4. any final resolution of a dispute pursuant to any Section of this Agreement that 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 310(c) and 109 of CERCLA.

23.2. Nothing in this Agreement shall be construed as a restriction or waiver of any rights EPA may have under CERCLA, including but not limited to any rights under CERCLA Sections 113, 120, 121 and 310, 42 U.S.C. §§ 9613, 9620, 9621 and 9659. The Army does not waive any rights it may have under CERCLA Section 120, 42 U.S.C. § 9620, SARA Section 211, and Executive Order 12580.

23.3. 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. The parties agree to exhaust their rights under Section XX, DISPUTE RESOLUTION, prior to exercising any rights to judicial review that they may have.

23.4. The Parties agree that both Parties shall have the right to enforce the terms of this Agreement.

XXIV. OTHER CLAIMS

24.1. Subject to Section VIII, *Statutory Compliance/RCRA-CERCLA Integration*, nothing in this Agreement shall restrict the Parties from taking any action under CERCLA, RCRA, State law, or other environmental statutes for any matter not specifically part of the Work performed under CERCLA, which is the subject matter of this Agreement.

24.2. Nothing in this Agreement shall constitute or be construed as a bar, or a discharge, or a release, from any claim, cause of action or demand in law or equity by or 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 Substances, hazardous waste, pollutants, or contaminants found at, taken to, or taken from the Site.

24.3. This Agreement does not constitute any decision or pre-authorization by EPA of funds under CERCLA Section 111(a)(2), 42 U.S.C. § 9611(a)(2), for any person, agent, contractor or consultant acting for the Army.

24.4. EPA shall not be held as a party to any contract entered into by the Army to implement the requirements of this Agreement.

24.5. The Army shall notify the appropriate Federal and State natural resource trustees of potential damages to natural resources resulting from Releases or

threatened Releases under investigation, as required by CERCLA Section 104(b)(2), 42 U.S.C. § 9604(b)(2), and Section 2(e)(2) of Executive Order 12580. Except as provided herein, the Army is not released from any liability that it may have pursuant to any provisions of State and Federal law, including any claim for damages for destruction of, or loss of, natural resources.

24.6. This Agreement does not bar any claim for:

- 24.6.1. natural resources damage assessments, or for damage to natural resources; or
- 24.6.2. liability for disposal of any Hazardous Substances or waste material taken from the Site.

XXV. RESERVATION OF RIGHTS

25.1. Notwithstanding anything in this Agreement, EPA may initiate any administrative, legal or equitable remedies available to it, including requiring additional Response Actions by the Army, in the event that: (a) conditions previously unknown or undetected by EPA arise or are discovered at the Site; or (b) EPA receives additional information not previously available concerning the premises which it employed in reaching this Agreement; or (c) the implementation of the requirements of this Agreement are no longer protective of public health and the environment; or (d) EPA discovers the presence of conditions on the Site that may constitute an imminent and substantial danger to the public health, welfare, or the environment; or (e) the Army fails to meet any of its obligations under this Agreement; or (f) the Army fails or refuses to comply with any applicable requirement of CERCLA or the NCP.

25.2. The Parties agree to exhaust their rights under Section XX, *Dispute Resolution*, of this Agreement prior to exercising any rights to judicial review that they may have.

25.3. The Parties, after exhausting their remedies under this Agreement, reserve any and all rights, including the right to raise or assert any defense they may have under CERCLA, or any other law, where those rights are not inconsistent with the provisions of this Agreement, CERCLA, or the NCP.

XXVI. PROPERTY TRANSFER

26.1. The Army shall not enter into any contract for the sale or other transfer of real property owned by the United States at SSC unless:

- 26.1.1. such transaction is completed in accordance with the requirements of CERCLA Section 120(h), 42 U.S.C. § 9620(h), including the Community Environmental Response Facilitation Act (CERFA), and any additional amendments thereof, and 40 C.F.R. Part 373, to the extent applicable; and
- 26.1.2. the Army complies with the requirements of Section 16.11 of this Agreement in connection with such transaction.

26.2. No change or transfer of any interest in SSC or any part thereof shall in any way alter the status or responsibility of the Parties under this Agreement. In accordance with CERCLA Section 120(h), 42 U.S.C. § 9620(h), in cases where the Army enters into any agreement to sell or otherwise transfer an interest in real property owned by the United States at SSC, the Army recognizes a continuing obligation under CERCLA and this Agreement to ensure that all Remedial Action necessary to protect human health and the environment due to past or future Releases of Hazardous Substances, contaminants or pollutants resulting from Army activities at SSC will be taken on such property in accordance with the Plan and this Agreement.

26.3. The Army agrees to give EPA sixty (60) days notice prior to the sale or other transfer by the United States of any title, easement, or other interest in the real property affected by this Agreement.

XXVII. FUNDING

27.1. 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 its budgetary process to fulfill its obligations under this Agreement.

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

27.3. 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.

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

27.5 Funds authorized and appropriated annually by Congress under the Environmental Restoration, Army (ER,A) appropriation in the Department of Defense Appropriations Act will be the source of funds for activities required by this Agreement consistent with 10 U.S.C. Chapter 160. However, should the ER,A appropriation be inadequate in any year to meet the total Army's implementation requirements under this Agreement, the SSC will, after consulting with EPA and the State and discussing the inadequacy with the members of the public interested in the action in accordance with Section XII, *Budget Development and Amendment of Plan*, prioritize and allocate that year's appropriation.

XXVIII. RECOVERY OF EPA EXPENSES

28.1. The Parties agree to amend this Agreement at a later date in accordance with any subsequent national resolution of the issue of EPA cost reimbursement for CERCLA response costs incurred by EPA. Pending such resolution, EPA reserves the rights it may have with respect to cost reimbursement.

XXIX. QUALITY ASSURANCE

29.1. The Army shall use quality assurance, quality control, and chain of custody procedures throughout all field investigation, sample collection and laboratory analysis activities. A Quality Assurance/Quality Control (QA/QC) Project Plan shall be submitted as a component of each SSP, RI, FS, RD, and RA Work Plan(s), as appropriate. These Work Plans will be reviewed as Primary Documents in accordance with Section X, *Consultation*, of this Agreement. QA/QC Plans shall be prepared in accordance with applicable EPA Guidance.

29.2. In order to provide for quality assurance and maintain quality control regarding all field work and samples collected pursuant to this Agreement, the Army shall include in each QA/QC Plan submitted to EPA and the State all protocols to be used for sampling and analysis. The Army shall also ensure that any laboratory used for analysis is a participant in a quality assurance/quality control program that is consistent with EPA Guidance.

29.3. The Army shall ensure that lab audits are conducted as appropriate and are made available to EPA and the State upon request. The Army shall ensure that EPA and/or the State and/or their authorized representatives shall have access to all laboratories performing analyses on behalf of the Army pursuant to this Agreement.

XXX. RECORD PRESERVATION

30.1. Despite any document retention policy to the contrary, the Parties shall preserve, during the pendency of this Agreement and for a minimum of seven (7) years after its termination or for a minimum of seven (7) years after implementation of any additional action taken in accordance with Section XIX, *Periodic Review*, all records and documents in their possession that relate to actions taken pursuant to this Agreement. The Army agrees to require its contractors, assigns and agents to turn over, as part of the contract, the above-described records to the Army, as appropriate, at the completion of the contract. After the seven (7) year period, each Party shall notify the other Party at least forty-five (45) days prior to the proposed destruction or disposal of any such documents or records. Upon the request of the notified Party, the Party providing such notification shall make available such records or copies of any such records unless withholding is authorized and determined appropriate by law. The Party withholding such records shall identify any documents withheld and the legal basis for withholding such records. No records withheld shall be destroyed until forty-five (45) days after the final decision by the highest court or administrative body requested to review the matter.

30.2. All such records and documents shall be preserved for a period of seven (7) years following the termination of any judicial action regarding the Work performed under CERCLA, which is the subject of this Agreement.

XXXI. SAMPLING AND DATA/DOCUMENT AVAILABILITY

31.1. Each Party shall make available to the other Party all the quality-assured results of sampling, tests, or other data generated through the implementation of this Agreement in a timely manner. If quality-assured results of data are not received in a timely manner, the Army will provide raw data to the EPA if requested

31.2. At the request of a Party, the other Party shall allow the requesting Party or its authorized representative to observe field work and to take split or duplicate samples of any samples collected pursuant to this Agreement. Each Party shall notify the other Party by telephone not less than fourteen (14) days in advance of any scheduled sample collection activity unless otherwise agreed upon by the Parties. The Party shall provide written confirmation within three (3) days of the telephonic notification.

31.3. If preliminary analysis indicates that an imminent or substantial endangerment to human health or the environment may exist, all Project Managers and the State shall be immediately notified.

XXXII. PROTECTED INFORMATION/RELEASE OF RECORDS

32.1. The Parties may request of one another access to or a copy of any record or document relating to the subject matter of this Agreement. If the Party that is the subject of the request (the originating Party) has the record or document, that Party shall provide access to or a copy of the record or document; provided, however, that no access to or copies of records or documents need be provided if they are subject to a claim of attorney-client privilege, attorney work product, and/or proper classification for national security under law or executive order.

32.2. Records or documents identified by the originating Party as confidential pursuant to one or more of the non-disclosure provisions of Section 552(b) and (c) of the Freedom of Information Act (FOIA), 5 U.S.C. §§ 552(b) and 552(c), shall be released to the requesting Party, provided that the requesting Party states in writing that it will not release the record or document to the public without prior approval of the originating Party or order of court. Records or documents that are provided to the requesting Party and that are not identified as confidential may be made available to the public without further notice to the originating Party.

32.3. Subject to CERCLA Section 120(j)(2), 42 U.S.C. § 9620(j)(2), any documents required to be provided by Section X, *Consultation*, as well as analytical data showing test results, will always be releasable, and no exemption shall be asserted by either Party, other than reasons of national security under law or executive order.

32.4. A determination not to release a record or document for one of the reasons specified above shall not be subject to Dispute Resolution. A Party objecting to such a determination by one of the other Party may pursue the objection through the determining Party's appeal procedures.

32.5. If the Army withholds a record or document based on grounds specified in this Section, it shall identify the document and summarize the contents of such document.

32.6. National Security Information:

32.6.1. Notwithstanding any other provision in this Section, any dispute concerning EPA access to national security information ("classified information"), as defined in Executive Order 12958, shall be resolved in accordance with Executive Order 12958 and 32 C.F.R. Part 159, including the opportunity to demonstrate that EPA representatives have proper clearances and a need to know, appeal to the Information Security Oversight Office, and final appeal to the National Security Council.

- 32.6.2. Upon receipt from EPA or the State of a request to meet with the classifying officer regarding access to classified information, the Army shall, within ten (10) calendar days of such request, notify the requesting Party of the identity of the classifying officer and the level of classification of the information sought. If the document was classified by the Army, the classifying officer and the representative of the requesting Party shall meet within twenty-one (21) calendar days following receipt of the request. The purpose of the meeting shall be to seek a means to accommodate the requesting Party's request for access to information without compromising national security or violating security regulations. If no resolution is reached at the meeting, the Army shall notify the requesting Party of the classifying officer's decision within fourteen (14) calendar days following the meeting. Failure to render a timely decision shall be construed as a denial. Failure to respond to such a request by EPA is subject to Dispute Resolution under this Agreement.
- 32.6.3. Nothing in this Subsection is intended to, or should be construed as, superseding any law, regulation, or promulgated Army directive regarding access to, release of, or protection of national security information.

XXXIII. COMMUNITY RELATIONS

- 33.1. The Army shall develop and implement a Community Relations Plan. This plan responds to the need for an interactive relationship with all interested community elements, both on and off the Site, regarding environmental activities conducted pursuant to this Agreement by the Army. Any revision or amendment to this Community Relations Plan shall be submitted to EPA and the State for review and comment.
- 33.2. Except in case of an emergency requiring the release of necessary information, and except in the case of an enforcement action, a Party issuing a press release with reference to any of the Work required by this Agreement shall use its best efforts to advise the other Party of such press release and the contents thereof upon issuance of such release.
- 33.3. The Parties agree to comply with all relevant EPA Guidance on community relations programs and the public participation requirements of CERCLA, including Sections 113(k) and 117, 42 U.S.C. §§ 9613(k) and 9617, the NCP and other applicable, relevant and appropriate requirements, laws and regulations. This shall be achieved through implementation of the Community Relations Plan.

33.4. In accordance with the requirements of CERCLA Section 117(d), 42 U.S.C. § 9617(d), two public information repositories exist as of the date of this Agreement, at SSC and at the Morse Institute in Natick, Massachusetts, for public inspection. The locations of this repositories are subject to change, and to the extent practicable, any such change in location will be indicated in the Community Relations Plan. The Army shall place all Primary and Secondary Documents as listed in Section X, *Consultation*, of this Agreement in these information repositories.

33.5. The Army shall establish and maintain an Administrative Record at or near SSC, in accordance with CERCLA Section 113(k), 42 U.S.C. § 9613(k), Subpart I of the NCP, and applicable EPA Guidance. The Administrative Record developed by the Army shall be available to the public and regularly updated. A copy of the Index to the Administrative Record and its update will be provided to EPA and the State.

33.6. Pursuant to Department of Defense/EPA Guidance, the Army has established a RAB for the Site. The RAB was chartered to allow for community involvement in the development and implementation of selected Remedial Actions, enabling early and continued two-way flow of information regarding environmental cleanup activities at the Site. It includes abutters to the Site, local environmentalists, representatives of town government, EPA and State environmental professionals and SSC employee representatives. The RAB is co-chaired by a representative of SSC and a member of the community selected by community members.

XXXIV. EFFECTIVE DATE

34.1. This Agreement shall be effective in its entirety among the Parties in accordance with Section XXXV, *Public Comment on this Agreement*.

34.2. Any Milestone, Deadline, Schedule or ROD required by this Agreement shall be effective upon finalization in accordance with Section IX, *Work to be Performed*, Section X, *Consultation* and Section XII, *Budget Development and Amendment of Plan* of this Agreement.

XXXV. PUBLIC COMMENT ON THIS AGREEMENT

35.1. Within thirty (30) days after the last Party executes this Agreement, the Army shall announce the availability of this Agreement to the public for its review and comment, including publication in at least two (2) major local newspapers of general circulation. Such public notices shall include information advising the public as to availability of this Agreement to the public for a forty-five (45) day comment period. Within twenty-one (21) days of completion of the public comment period, the Army shall transmit copies of all comments received within the comment period to EPA. Within thirty (30) days after such transmittal, the Parties shall review the comments and shall decide that either:

- 35.1.1. the Agreement shall be made effective without any modifications;
or
- 35.1.2. the Agreement shall be modified in accordance with this Section
prior to being made effective.

35.2. If the Parties agree that the Agreement shall be made effective without any modifications, and if the Parties agree on the Responsiveness Summary, EPA shall transmit a copy of the signed Agreement to the Army and the State and shall notify them in writing that the Agreement is effective. The effective date of the Agreement shall be the date of receipt by the Army of the signed Agreement from EPA.

35.3.1. If the Parties agree that modifications are needed and agree upon the modifications and amend the Agreement by mutual consent within sixty (60) days after the expiration of the public comment period, EPA, in consultation with the Army, will determine whether the modified Agreement requires additional public notice and comment pursuant to any provision of CERCLA.

35.3.2. If the Parties so amend the Agreement and EPA determines that no additional public notice and comment are required, and the Parties agree on the Responsiveness Summary, EPA shall transmit a copy of the modified Agreement to the Army and the State and shall notify them in writing that the modified Agreement is effective. The effective date of the modified Agreement shall be the date of receipt by the Army from EPA of such notification that the modified Agreement is effective.

35.3.3. If the Parties so amend the Agreement and EPA determines that additional public notice and comment are required, such additional notice shall be provided and such additional comment shall be solicited, received, transmitted to EPA and reviewed by the Parties in accordance with Subsection 35.1 of this Agreement. If the Parties agree, after such additional notice and comment, that the modified Agreement does not require any further modification, and if the Parties agree on the Responsiveness Summary, EPA shall send a copy of the modified Agreement to the Army and the State and shall notify them that the modified Agreement is effective. The effective date of the modified Agreement shall be the date of receipt by the Army from EPA of such notification that the modified Agreement is effective. If the Parties agree, after such additional notice and comment, that the modified Agreement does require further modification, such further modification shall be in accordance with Subsection 35.1 of this Agreement.

35.4. In the event that the Parties cannot agree on the modifications or on the Responsiveness Summary within the time period provided for in Subsection 35.3 above, the Parties agree to have at least one meeting within thirty (30) days after EPA's receipt of the public comments from the Army to attempt to reach agreement. The Parties agree to negotiate in good faith for at least a fifteen (15) day period before invoking Dispute Resolution.

35.5. If, thirty (30) days after EPA's receipt of the public comments from the Army, the Parties have not reached agreement on: whether modifications to the Agreement are needed; or what modifications to the Agreement should be made; or any language, any provisions, any Deadlines, any Work to be performed or any content of the Agreement or any Attachments to the Agreement; or whether additional public notice and comments are required; or the contents of the Responsiveness Summary, then the matters that are in dispute shall be resolved by Dispute Resolution. For the purposes of this Section, the Agreement shall not be effective while Dispute Resolution is underway. After these proceedings are completed, the final written decision shall be provided to the Parties indicating the results of such Dispute Resolution. Each Party reserves the right to withdraw from the Agreement by providing written notice to the other Party within twenty (20) days after receiving from EPA the final written decision of the resolution of the matters in dispute by Dispute Resolution. Failure by the Army to provide such a written notice of withdrawal to EPA within this 20-day period shall act as a waiver of the Army's right to withdraw from the Agreement, and EPA shall thereafter send a copy of the final Agreement to the Army and the State and shall notify them that the Agreement is effective. The effective date of the Agreement shall be the date of receipt by the Army from EPA of such notification that the Agreement is effective.

35.6. At the start of the 45-day public comment period, the Army shall transmit copies of this Agreement to the appropriate Federal, State, and local Natural Resource Trustees for review and comment within the time limits set forth in this Section.

XXXVI. AMENDMENT OF AGREEMENT

36.1. Except as provided in Section XIV, *Project Managers*, this Agreement can be amended or modified solely upon written consent of both Parties. Such amendments or modifications shall be in writing, and shall become effective on the third business day following the date on which the last Party signs the amendments or modifications. The Parties may agree on a different effective date. The last signing Party will provide notice to each signatory in accordance with Section XIV, *Project Managers*, of the effective date.

36.2. The Party initiating the amendment of this Agreement shall propose in writing the amendment for distribution and signature of the other Party.

36.3. A summary of any amendment to or modification of this Agreement relating to a Remedial Action, which the Parties mutually agree will not significantly affect the authority or obligations established under this Agreement (including annual amendments to the Plan), shall be published in two (2) major local newspapers of general circulation. A summary of any amendment to or modification of this Agreement, which the Parties mutually agree will significantly affect the authority or obligations established under this Agreement, shall be published in two (2) major

local newspapers of general circulation and the public shall be given the opportunity to comment in a manner consistent with Section XXXV, *Public Comment on this Agreement*. In the event that the Parties cannot mutually agree, the amendments or modifications shall be deemed to significantly affect the authority or obligations established under this Agreement.

XXXVII. SEVERABILITY

37.1. If any provision of this Agreement is ruled invalid, illegal, or unconstitutional by a court of competent jurisdiction, the remainder of the Agreement shall not be affected by such a ruling.

XXXVIII. TERMINATION AND SATISFACTION

38.1. The provisions of this Agreement shall be deemed satisfied upon a consensus of the Parties that the Army has completed its obligations under the terms of this Agreement. Following EPA Certification of the Response Actions at the Site in accordance with Subsection 9.11.4 of Section IX, *Work to be Performed*, either Party may propose in writing the termination of this Agreement upon a showing that the requirements of this Agreement have been satisfied. The obligations and objectives of this Agreement shall be deemed satisfied and terminated upon receipt by the Army of written notice from EPA that the Army has demonstrated that all the requirements of this Agreement have been satisfied. A Party opposing termination of this Agreement shall provide a written statement of the basis for its denial and describe the actions necessary to grant a termination notice to the proposing Party within thirty (30) days of receipt of the proposal.

38.2. Any disputes arising from this Termination and Satisfaction process shall be resolved in accordance with Section XX, *Dispute Resolution*, of this Agreement.

38.3. Upon termination of this Agreement, EPA shall place a public notice announcing termination in two (2) major local newspapers of general circulation.

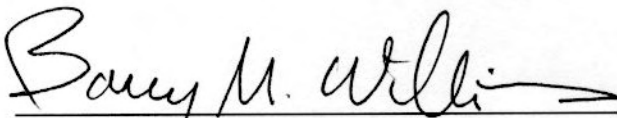
38.4. This Section shall not affect the Parties' obligations under Section XIX, *Periodic Review*, of this Agreement. In no event will this Agreement terminate prior to the Army's completion of the Work required by this Agreement.

AUTHORIZED SIGNATURES

The undersigned representative of the Parties certifies that he or she is fully authorized by the Party he or she represents to enter into the terms and conditions of this Agreement and to legally bind such Party to this Agreement.

IT IS SO AGREED:

By

A handwritten signature in cursive script, reading "Barry M. Williams", written over a horizontal line.

BARRY M. WILLIAMS

Garrison Manager

U.S. Army Soldier Systems Center

Natick, Massachusetts

Date *5 June*
2006

AUTHORIZED SIGNATURES

The undersigned representative of the Parties certifies that he or she is fully authorized by the Party he or she represents to enter into the terms and conditions of this Agreement and to legally bind such Party to this Agreement.

IT IS SO AGREED:

By

A handwritten signature in black ink, consisting of stylized loops and a final 'IV' at the end, positioned above a horizontal line.

ADDISON D. DAVIS, IV
Deputy Assistant Secretary of the Army
(Environment, Safety and Occupational Health)
OASA (I,L&E)

Date

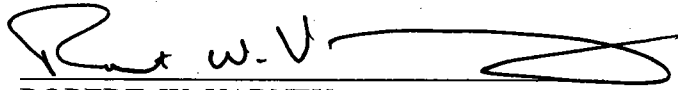
23 JUL 06

AUTHORIZED SIGNATURES

The undersigned representative of the Parties certifies that he or she is fully authorized by the Party he or she represents to enter into the terms and conditions of this Agreement and to legally bind such Party to this Agreement.

IT IS SO AGREED:

By

A handwritten signature in black ink, appearing to read "Robert W. Varney", written over a horizontal line.

ROBERT W. VARNEY

Regional Administrator

U.S. Environmental Protection Agency, Region 1

8/2/06

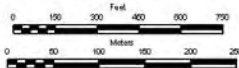
Date

APPENDIX A - MAP OF NATICK LABORATORY ARMY RESEARCH, D&E
CENTER (SOLDIER SYSTEMS CENTER)



SOURCES
 ICF Consulting
 Office of Geographic and Environmental Information (MassGIS)
 Commonwealth of Massachusetts Executive Office of Environmental Affairs
 U.S. Geological Survey
FILE INFORMATION
 File Name: \CAD\TEPS\NATICK\GIS\site location map.mxd

ICF
 CONSULTING



SSC LOCATION MAP

**APPENDIX B - LIST OF AREAS OF CONCERN AT NATICK LABORATORY
ARMY RESEARCH, D&E CENTER (SOLDIER SYSTEMS CENTER)**

T-25 Area

T-25 Outfall

Main Outfall

Buildings 2 & 45 Outfall

Buildings 63, 2 & 45

Former Proposed Gymnasium Area

Supply Wells

Building 22 & 36

**APPENDIX C - LIST OF SITE SCREENING AREAS AT NATICK
LABORATORY ARMY RESEARCH, D&E CENTER (SOLDIER SYSTEMS
CENTER)**

Boiler Plant

Building 14 and Former Building 13

Buildings 62 and 68

APPENDIX D - PLAN

**U. S. Army Soldier Systems Center
Federal Facilities Agreement
Site Management Plan**

Near-Term Milestones	
Task	Due Date
Draft 5-Year Review	7/21/06
Draft Supplemental Remedial Investigation Report Former Proposed Gymnasium Site (NRDEC-06)	8/18/2006
Draft Supplemental Site Investigation Report – Buildings 63, 2 and 45 (NRDEC-11)	8/25/06
Draft Proposed Plan – T-62 & T-68 and Former Proposed Gymnasium Site, (NRDEC-03, -06,-13)	9/29/06
Draft Supplemental Remedial Investigation Report T-25 Area Soils	10/13/06
Draft Proposed Plan T-25 Outfall, Main Stormwater Outfall, and Buildings 2 and 45 Parking Lot Outfall (NRDEC-07, -10, and -17)	10/20/06
Draft Record of Decision – T-62 & T-68 and Former Proposed Gymnasium Site, (NRDEC—03, -06,-13)	12/29/06
Draft Record of Decision T-25 Outfall, Main Stormwater Outfall, and Buildings 2 and 45 Parking Lot Outfall (NRDEC-07, -10, and -17)	3/16/07
Draft Focused Feasibility– Buildings 22 & 36 (NRDEC-16) and Buildings 63, 2 and 45 (NRDEC-11)	5/18/07
Draft Proposed Plan – T-25 Area Soils Building 14 Petroleum, Building 13 Classified Incinerator, and Boiler Plant Area (NRDEC-05, -09, -12 and -14)	6/15/07
Out Year Milestones and Target Dates	
Task	Date
Draft Explanation of Significant Differences (ESD) – Add Buildings 22 & 36 (NRDEC-16) and Buildings 63, 2 and 45 (NRDEC-11) to OU-1 (T-25) Area	July 2007
Draft Remedy Optimization Report - OU-1	August 2007
Draft Record of Decision – T-25 Area Soils Building 14 Petroleum, Building 13 Classified Incinerator, and Boiler Plant Area (NRDEC-05, -09, -12 and -14)	December 2007
Draft Proposed Plan - OU-1 ROD Amendment	December 2008
Draft Record of Decision Amendment – OU-1	June 2009