

**COMMENT RESPONSES FROM ENGINEERING FIELD ACTIVITY, NORTHEAST
REGARDING PETITION TO MODIFY NAVAL WEAPONS INDUSTRIAL RESERVE PLANT
SITE ID #130003B**

**Comments from New York State Department of Environmental
Conservation (NYSDEC) dated October 29, 2002:**

The incompleteness of the petition consists of the following omissions:

1. **Finding of Suitability to Transfer (FOST - 105 Acre Parcel),
Enclosure 2, Deed Notification and Restriction:** The Department of Navy needs to revise the deed restriction and institutional controls listed in Enclosure 2 of the FOST. These revisions must be submitted to and accepted by the Department's Division of Environmental Remediation (DER) and Division of Solid and Hazardous Materials (DSHM).

The deed restriction must then be filed with the Nassau County Office of Records (NCOR). The following revisions should be made to the deed restrictions:

- a) Tables 9-1 through 9-6 of the FOST Appendix should be included on the deed notice filed with the NCOR.
- b) Figures 8A and 9A (2 by 3 foldout sheets) of the FOST should be included with the deed restriction filed with the NCOR.
- c) Institutional Controls and deed restrictions, specified in the NWIRP OU 1 Soils Record of Decision (ROD) for Sites 2 and 3 must be in place before the portion of the property petitioned can be delisted and transferred to NCOR.
- d) The Department of Navy needs to submit a draft of the declaration of the covenants and restrictions along with the metes and bounds description of the area where digging will be prohibited/restricted for our review and acceptance.
- e) The groundwater use restrictions also need to be specified in the declaration of the covenants and restrictions.

RESPONSE TO 1: The Department of the Navy is presently without the requisite authority to place an encumbrance on any Federal property, including the 105-acres, prior to conveyance. The Navy's real estate disposal authority for the 105-acres, as well as for Plant 20, is special authority issued as part of Special Legislation. This authority allows the Department of Navy to issue restrictions as part of the deeds of transfer for property that is to be conveyed. Regarding the 105-acre property, all required deed restrictions will be included in the Quitclaim deed(s) that will be used to convey title to the ultimate transferee. That Quitclaim deed(s), with the restrictions, will then be recorded with the NCOR.

RESPONSE TO 1a: Reference to Tables 9-1 through 9-6 in Appendix A of the FOST for the 105-Acre Parcel will be included in the deed of transfer as recommended.

RESPONSE TO 1b: Reference to Figures 8A and 9A in Appendix A of the FOST for the 105-Acre Parcel will be included in the deed of transfer as recommended.

RESPONSE TO 1c: The institutional control of a soil cover atop Sites 2 and 3 has been completed (see Construction Completion Report dated May 2002).

For reasons stated in the Navy's response to Item 1 above, the Navy can not encumber property prior to conveyance. However, notification of those areas where residual compounds remain, will be included in the appropriate transfer documents.

RESPONSE TO 1d: By issuance of the Draft FOST, including enclosure (2) to the FOST, the Navy has provided the NYSDEC with the covenants and restrictions expected to be part placed on the property that is to be conveyed.

Please note that the Navy is not restricting digging in those AOCs where residual compounds remain. The Navy is simply notifying the transferee of their existence so that the appropriate precautions can be taken by the transferee for worker protection and to insure appropriate soil disposal. Therefore, since an actual restriction is not being placed on these areas, the Navy does not feel that metes and bounds survey of each AOC is warranted. Instead, the Navy developed tables and figures depicting each AOC location where a residual compound remains and included this information into Appendix A of the FOST.

RESPONSE TO 1e: Agreed. Item 6 of the Environmental Covenants, Conditions, and Restrictions (enclosure 2 of the FOST) is vague regarding groundwater use restrictions. This item will be amended to be more specific regarding the restriction of groundwater use beneath the 105-acre parcel.

2. **NWIRP Plant 3 (105 Acre Parcel) Installation and Restoration (IR) Operable Unit 1, Sites 1, 2 and 3 Construction Completion Report:**

The Bureau of Construction Services is the project lead for this part of the project and Sites 2 and 3 are part of the areas to be delisted and subsequently transferred as part of the FOST. This report was commented on by the Bureau of Construction Services and their comments have yet to be addressed. This Construction Report needs to be finalized before this portion of the site can be delisted (see also comment 1C above).

RESPONSE TO 2: Comment noted. There were only 2 comments issued regarding the above Report. The first was to include a new figure in the front of the document. A revised figure was developed and forwarded to NYSDEC via email for inclusion into their copy of the report. The second was to have a New York licensed Professional Engineer declare that the work at Site 2 was completed as designed. A New York State licensed P.E. from

Tetra Tech NUS, who provided oversight during installation of the permeable soil/gravel cover, has performed an engineering review of the work conducted by CAPE Environmental. His findings have been summarized in a Declaration Page. The Declaration page and the revised Figure will be forwarded to Mr. Gerard Burke or NYSDEC's Bureau of Construction Services. These pages should be inserted appropriately into the Construction Completion Report dated May 2002.

3. The Major Modification of the 6NYCRR Pat 373 Permit Removal of the 105 acres site Statement of Basis Report must be approved by the DSHM before the petition to modify the boundaries of the 105-acre parcel can be approved.

RESPONSE TO 3: Comment noted. The document referenced above was prepared by the Northrop Grumman Corporation and submitted to Mr. Steve Kaminski of NYSDEC for review back in February 2001. The Navy is not aware of any comments that were forwarded to Northrop Grumman regarding the referenced document. Therefore, the Navy has assumed that NYSDEC concurs with the document as submitted.

4. **Finding of Suitability to Transfer (FOST - Plant 20 Parcel), Enclosure 2, Deed Notification and Restriction:** The deed restrictions included in Enclosure 2 of the FOST must be filed with the NCOR. The Plant 20 parcel can be delisted separately from the main 105 acre parcel.

RESPONSE TO 4: As stated in the Response to 1 above, the Department of the Navy is presently without the requisite authority to place an encumbrance on any Federal property, including Plant 20, prior to conveyance. The Navy's real estate disposal authority for Plant 20, as well as for the 105-acres, is special authority issued as part of Special Legislation. This authority allows the Department of Navy to issue restrictions as part of the deeds of transfer for property that is to be conveyed. Regarding the Plant 20 property, all required deed restrictions have been included in the Quitclaim deed that will be used to convey title to the ultimate transferee. That Quitclaim deed, with the restrictions, will then be recorded with the NCOR.

5. The tax map numbers and a metes and bounds description for the remaining 8.7 acres of the main 105 acres parcel need to be provided.

RESPONSE TO 5: A property survey map for the entire 105-acre parcel, including the 8.7 acres that is to be retained by the Navy, was previously submitted as enclosure 2 to the Boundary Modification Request that was sent to Ms. Erin Crotty of NYSDEC on May 31, 2002. A legal description of the 8.7-acre parcel has been completed and will be forwarded to NYSDEC and to the attention of Mr. Dennis Farrar and Mr. Steve Scharf. This legal description will be used to describe this area in the quickclaim deed.

The New York State Department of Health's comments (Gilday to Scharf/Wilkie) regarding the FOST for Plants 3 and 20, the Construction Completion Report for Installation and Restoration (IR) for sites 2 and 3, the Phase II Environmental Baseline Survey, NWIRP, Bethpage, and the petition to delist portions of the 105 acre facility and Plant 20 from the Department's registry of Inactive Hazardous Waste Disposal Sites were sent directly to the Department of Navy on October 1, 2002. The comments need to be addressed before the requested boundary modifications can be approved.

RESPONSE: Navy responses to NYSDOH comments referenced above have been completed and presented in a separate comment response document.