

BEFORE THE ENVIRONMENTAL APPEALS BOARD
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C.

In re:)
)
Joint Base Elmendorf-Richardson Hazardous) **Docket No. _____**
Waste Management Facility Permit)
)
United States Department of the Air Force,)
673d Air Base Wing, *Permit Applicant*)
Permit No. AK8 57002 8649)

**PETITION FOR REVIEW OF HAZARDOUS WASTE MANAGEMENT FACILITY
PERMIT AND REQUEST FOR ORAL ARGUMENT**

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I. INTRODUCTION

The United States Department of the Air Force (the “Air Force” or “Petitioner”) respectfully submits this Petition for Review to the Environmental Appeals Board (“EAB” or “Board”) concerning the Final Hazardous Waste Management Facility Permit, Permit No. AK8 57002 8649 (“2023 Permit”), issued on September 30, 2023 by the United States Environmental Protection Agency (“EPA”), Region 10. A copy of the Permit without its accompanying attachments is attached hereto as Attachment A.

The Air Force principally challenges three provisions of the 2023 Hazardous Waste Management (“HWM”) Permit: (1) Condition III.A.2 requiring the Air Force to “exhaust all options” to implement corrective action beyond the facility, including the mandate that the Air Force purchase affected property, (2) the language contained in the introductory section of Part III of the Permit that changes the longstanding relationship between EPA and the Air Force under the Federal Facility Agreements (“FFA”) and previous versions of this Permit, and (3) the definition of “hazardous constituent” extending to any “*newly regulated* hazardous constituents.”

Due to procedural defects in the permitting process, the Air Force did not submit a comment on the draft 2023 Permit. Nevertheless, this Board should grant review because these procedural defects hindered the Air Force’s ability to reasonably ascertain the scope and significance of the new permit conditions. Alternatively, the Board should grant review given the significance of the issues involved, which may ultimately require resolution after a conference with the EPA Administrator.

The 2023 Permit contains several erroneous conclusions of law. The permit terms at Condition III.A.2. requiring the Air Force to “exhaust all options” to implement corrective actions beyond the facility property are clearly erroneous on multiple grounds. First, the terms at

Condition III.A.2. are beyond the EPA’s statutory and regulatory authority. Congress directed EPA to promulgate regulations addressing beyond the facility corrective actions. The EPA subsequently passed regulations mirroring the statutory requirements. *See* 42 U.S.C. § 6924(v); 40 C.F.R. §§ 264.100(e)(2) and 264.101(c). The current Permit language, however, omits an exception built into the statute and regulations by *mandating* certain beyond the facility actions. That is, the 2023 Permit exceeds the requirements that EPA set in its own rules. Likewise, these permit terms constitute a legislative rule, and thus EPA was required to comply with the rulemaking procedures under the APA before including these terms in the permit. Additionally, the permit seeks to usurp the Secretary of the Air Force’s sole authority to direct land acquisitions under 10 U.S.C. § 2663. Moreover, the Permit holds federal facilities to a more stringent standard than non-federal facilities and thus does not fall within the federal government’s limited waiver of sovereign immunity under RCRA. Finally, the terms at Condition III.A.2. run afoul of the Anti-Deficiency Act (“ADA”), 31 U.S.C. § 1341 *et. seq.*, since the permit mandates the Air Force to take otherwise unlawful action on a contingent, indefinite basis.

In addition to the number of issues with Condition III.A.2., the 2023 Permit also undermines the long-standing FFAs at Joint-Base Elmendorf Richardson (“JBER”), and improperly extends the definition of “hazardous constituent.” Moreover, due to the significance of these issues, the Air Force may also request a conference with the EPA Administrator upon final order of this Board, pursuant to 40 C.F.R. § 22.31(e)(2).

II. FACTUAL BACKGROUND

Joint Base Elmendorf-Richardson is a Department of Defense (“DoD”) installation consisting of 74,297 acres of land north of the Municipality of Anchorage, Alaska. Fact Sheet at

2 (Attachment B). The base’s current population consists of approximately 13,000 active-duty military personnel, approximately 18,500 dependents, and nearly 3,070 federal civil employees. *Id.* JBER is the largest Air Force Base in Alaska and its mission to provide support for the air defense and sovereignty of Alaska and North America. *Id.* The installation is also home to one U.S. Army Brigade and serves as the point of mobilization for Army forces in Alaska for conducting contingency operations within the Pacific theater and beyond. *Id.*

The EPA added Elmendorf AFB (“EAFB”) and Fort Richardson to the National Priorities List (“NPL”) in 1990 and 1994, respectively. 2023 Permit at 17. The facilities were subsequently merged in 2010, creating JBER. *Id.* The DoD established the Defense Environmental Restoration Program to address the sites that are within the responsibility for the DoD under the Comprehensive Environmental Response, Compensation and Liability Act (“CERCLA”), 42 U.S.C. §§ 9601 *Id.* The Air Force, EPA, and Alaska Department of Environmental Conservation (“ADEC”) signed a FFA for EAFB in November 1991, and a separate FFA for Fort Richardson was completed in December 1994. *Id.* Both documents are included as attachments to this Petition as Attachment C (Elmendorf FFA) and Attachment D (Ft Richardson FFA). Although EAFB and Fort Richardson have since merged to form JBER, the separate FFAs remain in effect. *Id.*

The FFAs declare that “[t]he Parties intend to integrate USAF’s CERCLA response obligations and RCRA corrective action obligations that relate to the release(s) of hazardous substances, hazardous wastes, pollutants, or contaminants covered by [the] Agreement into this comprehensive Agreement . . . [and] the Parties intend that the activities covered by this Agreement will achieve compliance with CERCLA . . . [and] satisfy the corrective action requirements of Sections 3004(u) and (v) of RCRA [42 U.S.C. § 6924]” EAFB FFA at 15-

16, ¶ 5.1; Fort Richardson FFA at 13-14, ¶ 5.1. The FFAs also state that the “Parties intend that any remedial action selected, implemented, and completed under [the] Agreement will be protective of human health and the environment such that remediation of releases covered by [the] Agreement shall obviate the need for further corrective action under RCRA (i.e., no further corrective action shall be required).” EAFB FFA at 16, ¶ 5.2; Fort Richardson FFA at 14, ¶ 5.2. In the event a permit is issued to the Air Force for ongoing hazardous waste management activities outside of the FFAs, the EPA or ADEC “shall reference and incorporate any appropriate provisions . . . of the [FFAs] into such permit.” EAFB FFA at 16, ¶ 5.3; Fort Richardson FFA at 14, ¶ 5.3.

Both FFAs also outline the specific procedures for adding newly-discovered units to the agreement. Pursuant to the Richardson FFA, the parties agreed that any new source areas would be addressed under the last scheduled operating unit (“OU”) under the FFA, unless the parties agree otherwise. Richardson FFA at 53, ¶ 24.3. Likewise, under the EAFB FFA, “[a]ny ecological or human health cumulative risks effects which may become evident from the aggregate of source areas at EAFB not addressed in the prior OU RI/FS will be covered under [OU 6].” EAFB FFA at A-2, ¶ 2. The FFAs further provide that any modifications to the scope of work “may be effected by the *unanimous agreement*” of the parties. EAFB FFA at 60, ¶ 33.1; Fort Richardson FFA at 61-62, ¶ 33.1.

In 2003, EPA issued then-Elementorf AFB a HWM permit authorizing the operation of a storage unit and outlining corrective action measures for Solid Waste Management Units (“SWMUs”). 2003 Permit at 7, 31 (Attachment E). Consistent with the relevant FFA provisions, the 2003 Permit states that all investigations and cleanups included in the FFA will meet or exceed all ARARs, including RCRA. *Id.* at 31, ¶ IV.A..1. The 2003 Permit further provides that

the FFAs satisfy the corrective action requirement for SWMUs under the RCRA regulations *except* for: (1) SWMUs that the parties to the FFA transfer to the RCRA permit identified in an attachment to the permit, (2) SWMUs the parties to the FFA formally identify as outside the scope, (3) newly identified SWMUs that parties identify as outside the scope of the FFAs that EPA determines to be subject to corrective action; and (4) SWMUs that are discovered after the termination of the FFA. *Id.* at 31, ¶¶ IV.A.2(a)-(d). The 2003 Permit expressly identifies SWMUs that are subject to the FFA and outlines a detailed process for newly-identified or newly-created SWMUs. *Id.* at 31-32, ¶¶ IV.A.4 – IV.B. The 2003 Permit does not specifically address corrective actions to be taken beyond the facility boundary beyond merely noting that “[t]he corrective action for USAF Elmendorf AFB will be satisfied by the FFA” *Id.* at 31, ¶ IV.A.2.

EPA issued a permit modification in 2010 to reflect the merger of Elmendorf AFB and Fort Richardson. 2010 Permit at Cover Letter (Attachment F). The 2010 Permit contains near-identical provisions as the 2003 Permit. As highlighted in the Introductory Section of the 2010 Permit, the modifications to the 2010 Permit consist of (1) replacing “Elmendorf” with “Joint Base Elmendorf” or “JBER,” (2) rewriting a provision to now include both the FFAs from Fort Richardson and Elmendorf, and (3) updating the contact information for the U.S. EPA Director. 2010 Permit at 8. The 2010 permit expired on December 15, 2013; however, the permit conditions have remained in effect. Fact Sheet at 6.

JBER applied to renew this Permit in late 2022. RCRA Part A Application (Attachment G). EPA Region 10 issued a draft renewal permit and accompanying fact sheet on July 24, 2023, announcing a forty-five day comment period until September 7, 2023. Fact Sheet at 1. EPA received one comment during this period from the Citizens for Safe Water Around Badger and

Alaska Community Action on Toxics. Response to Comments (Attachment H). The citizen groups expressed concern about the deferral of the closure of the open burn/open detonation (“OB/OD”) area at JBER. *Id.* EPA responded by noting that they will require JBER to collect additional environmental information and inserted a placeholder condition in the permit that the agency indicated they will later populate via a permit modification. *Id.*

Region 10 issued the final HWM Permit on September 30, 2023 with an effective date of October 30, 2023. Final Permit at i. The 2023 Permit principally contains two significant sections: (1) the procedures for the closure of the OB/OD unit (Part II of the Permit) and (2) corrective actions for all SWMUs at JBER, including the OB/OD unit (Part III of the Permit). The Permit contains several standard conditions that were carried over from the 2010 Permit. *See* 2023 Permit, Standard Conditions at 5-14. The 2023 Permit also mirrors provisions from the 2003 and 2010 permits noting that “[n]o provision of [the] Permit shall be interpreted to require the Permittee to obligate funds in violation of the Anti-Deficiency Act, 31 U.S.C. Section 1341.” Final Permit at 8, ¶ I.J.

The 2023 Permit, however, includes several significant changes from the 2003 and 2010 permits. Specifically, the 2023 Permit contains a condition regarding corrective action beyond the facility boundary:

The Permittee must take corrective action beyond the facility property boundary where necessary to protect human health and the environment, in accordance with § 3004(v) of RCRA, 42 USC § 6924(v), and 40 CFR § 264.101. The Permittee *must exhaust all options* to implement corrective action beyond the facility property boundary, *including but not limited to purchasing affected property by eminent domain, relocating affected populations to new housing, and offering to finance and construct satisfactory water supply utilities to affected properties* before making a demonstration, in accordance with 40 CFR § 264.101.

Final Permit at 18, ¶ III.A.2 (emphasis added).

Additionally, the 2023 Permit alters the long-standing interplay between the FFAs and the HWM Permit. Specifically, the 2023 Permit states that actions performed under the FFAs will satisfy corrective action for the Facility except for “newly discovered SWMUs that are not expressly included in writing as within the scope of the FFAs.” Final Permit at 18.

Finally, the Permit seeks to expand the scope of corrective action by redefining the definition of “hazardous constituent” *Id.* at 3. The 2023 Permit expands the definition by including “any newly regulated hazardous constituents.” This language is absent from the 2003 and 2010 permits. *See* 2003 Permit at 9; 2010 Permit at 9.

III. LEGAL BACKGROUND

In 1976, Congress enacted RCRA to address the growing problem of solid and hazardous waste in the United States. *See* Resource Conservation and Recovery Act of 1976, Pub. L. No. 94-580 §§ 1002–03 (Oct. 21, 1976) (codified at 42 U.S.C. §§ 6901 *et. seq.*) As part of RCRA, Congress created the Subtitle C hazardous waste management program. 42 U.S.C. at §§ 6921 *et. seq.* RCRA defines “hazardous waste” as:

. . . [S]olid waste, or combination of solid wastes, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may— (A) cause, or significantly contribute to an increase in mortality or an increase in serious irreversible, or incapacitating reversible, illness; or (B) pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, or disposed of, or otherwise managed.

42 U.S.C. § 6903(5). Congress further directed EPA to identify characteristics of hazardous waste and list hazardous wastes subject to the requirements of Subtitle C. *Id.* at § 6921(b); *see City of Chicago v. Env'tl Defense Fund*, 511 U.S. 328, 332 (1994). EPA first promulgated the regulatory definition of “hazardous waste” in 1980. *See Hazardous Waste Management System: Identification and Listing of Hazardous Waste*, 45 Fed. Reg. 33,084 (May 19, 1980) (codified at 40 C.F.R. §§ 260.10, 261.3).

RCRA also directed EPA to establish “regulations establishing such performance standards applicable to owners and operators of facilities for the treatment, storage, or disposal of hazardous waste identified or listed under [Subtitle C of RCRA].” 42 U.S.C. § 6924(a). In 1982, based on this requirement, EPA developed a corrective action program as part of the groundwater monitoring program for qualifying hazardous constituents found at 40 C.F.R. Part 261, Appendix VIII, applicable to certain “regulated units.” *See Hazardous Waste Management System; Standards Applicable to Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities; and EPA Administered Permit Programs*, 47 Fed. Reg. 32,274, 32,310 (July 26, 1982).

In 1984, Congress passed the Hazardous and Solid Wastes Amendment Act (“HSWA”), a major revision to RCRA. *See generally* Pub. L. No. 98-616 (Nov. 8, 1984). The HSWA added two relevant corrective action authorities. Section 206 provides, in relevant part:

Standards promulgated under this section shall require, and a permit issued after November 8, 1984, by the Administrator or a State shall require, corrective action for all releases of hazardous waste or constituents from any solid waste management unit at a treatment, storage, or disposal facility seeking a permit under [Subtitle C] regardless of the time at which waste was placed in such unit...

42 U.S.C. § 6924(u).

Section 207 provides, in relevant part:

. . . [T]he Administrator shall amend the standards under this section regarding corrective action required at facilities for the treatment, storage, or disposal, of hazardous waste listed or identified under section 3001 [42 U.S.C. § 6921] to require that corrective action be taken beyond the facility boundary where necessary to protect human health and the environment *unless* the owner or operator of the facility concerned demonstrates to the satisfaction of the administrator that, *despite the owner or operator’s best efforts, the owner or operator was unable to obtain the necessary permission* to undertake such action

42 U.S.C. § 6924(v) (*emphasis added*).

EPA amended 40 C.F.R. Part 264, Subpart F, in response to HWSA’s new corrective action authorities. *See Hazardous Waste Management System, Final Codification Rule*, 50 Fed. Reg. 28,702, 28,711-716 (July 15, 1985) (codified at 40 C.F.R. §§ 264.90(a), 264.101). The amended corrective action regulations explained that hazardous constituents for the new regulations are those listed at 40 C.F.R. Part 261, Appendix VIII. 50 Fed. Reg. 28,702, 28,713 (“The term ‘hazardous constituent’ as used in this section is intended to mean those constituents listed in Appendix VIII to 40 CFR Part 261 . . .”).

In December 1987, EPA promulgated rules for corrective action requirements beyond the facility boundary. 52 Fed. Reg. 45,788 (Dec. 1, 1987) (codified as amended at 40 C.F.R. §§ 264.100(e)(2) & 264.101(c)). These regulations track the language of the 42 U.S.C. § 6924(v) and explain (1) that the “best efforts” demonstration is subject to Regional Administrator approval, (2) that the owner or operator is not relieved of all responsibility to cleanup a release beyond the facility boundary where off-site access is denied, and (3) that on-site measures are to be determined on a case-by-case basis. 40 C.F.R. §§ 264.100(e)(2) & 264.101(c).

IV. ARGUMENT

This Board should grant the Air Force’s Petition for Review due to Region 10’s failure to comply with the regulatory requirements directing the agency to specifically provide its justification and factual, policy, and legal bases for the 2023 Permit in the accompanying fact sheet. Region 10 also significantly modified a permit dating back to 2003 and, in doing so, altered longstanding FFAs at JBER that have been in place for nearly three decades. These failures hindered the Air Force’s ability to reasonably ascertain the significance of the new permit terms. Moreover, the 2023 Permit contains several clearly erroneous matters of law. The Permit goes well beyond EPA’s statutory and regulatory authority to impose beyond the facility

corrective actions and, as a result, also undermines the Secretary of the Air Force's sole authority to acquire land for the Air Force. Additionally, the permit terms at Condition III.A.2. fall outside of RCRA's waiver of sovereign immunity and may violate the Anti-Deficiency Act. Moreover, the 2023 Permit contravenes the longstanding FFAs and attempts to improperly extend the definition of "hazardous constituent." For these reasons, this Board should remand the Permit to Region 10 for reconsideration.

A. The Air Force Satisfies the Requirements of a Petition for Review of the Permit

This Board should grant the Air Force's Petition for Review because (1) the appeal is timely filed, (2) Region 10 failed to comply with its regulatory requirements which, in turn, impacted the Air Force's ability to reasonably ascertain the significance of the modified permit terms, and (3) even if the terms were "reasonably ascertainable," this Permit implicates significant statutory and policy concerns warranting review.

First, this Petition is timely filed in accordance with 40 C.F.R. § 124.19(a)(3). Region 10 issued this Final Permit on September 30, 2023, and the appeal was filed on October 30, 2023 – within the 30-day deadline.

Second, although the Air Force did not submit comments during the comment period, this Board should grant review due to the procedural defects in the permitting process which hindered the Air Force's ability to reasonably ascertain the justification and significance of the new permit conditions.

EPA regulations provide that all "reasonably ascertainable" issues and reasonably available arguments are to be raised before the close of the public comment period. 40 C.F.R. § 124.13. EPA's regulations also provide that the agency is to prepare a fact sheet in connection with every draft permit that sets forth the principal facts and significant factual, legal,

methodological, and policy questions considered in preparing the draft permit. *Id.* at § 124.8(a). The fact sheet *must* provide a brief summary of the basis for the draft permit conditions, including references to the applicable statutory or regulatory provisions and appropriate supporting references to the administrative record. *Id.* at § 124.8(b)(4).

Region 10 made a number of significant changes to JBER’s HWM permit – yet the fact sheet (or any other document contained in the presumptive administrative record) fails to set forth the “principal facts and significant factual, legal, methodological, and policy questions” Region 10 considered in preparing the draft. Likewise, the fact sheet fails to provide a summary of the bases for the new permit conditions.

For decades, the Air Force has been operating under a HWM permit at JBER that merely discussed EPA’s authority pursuant to Section 6924(u) to require corrective action, as necessary, to protect human health and the environment. 2003 Permit at 31, ¶ IV.A.1; 2010 Permit at 32, ¶ IV.A.1. Then, in 2023, without warning, identification, discussion, or justification, EPA included a provision adding a requirement for corrective action beyond the facility boundary that goes well beyond the statutory and regulatory “best efforts,” as discussed more thoroughly in Section IV.B. of this Petition. Yet, the fact sheet contains no discussion regarding EPA’s interpretation of 42 U.S.C. § 6924(v) and its implementing regulations, 40 C.F.R. §§ 264.100(e)(2) & 264.101(c).¹ Moreover, neither the fact sheet nor any other document in the administrative record provides any “basis for the draft permit conditions” or sets forth any factual, legal, methodological, or policy questions considered regarding the new, expansive corrective action

¹ Additionally, as this Board has explained, permit conditions not required by final regulations must be defended as appropriate on a case-by-case basis to avoid unnecessary or inappropriate burdens upon the permittee. *In re Caribe General Electric Products, Inc.*, 8 E.A.D. 696, 703 (EAB 2000) (citing *In re General Motors Corp., Delco Moraine Div.*, 4 E.A.D. 334, 343 n.15 (EAB 1992)). This is also absent from the administrative record.

requirements contained at Condition III.A.2. of the Permit. The relevant portion of the fact sheet merely contains boilerplate language, stating, “Part III of the draft Permit outlines requirements for implementing corrective actions measures to protect human health and the environment from any hazardous waste releases or constitutes from any SWMU at the Facility, regardless of when the waste was place in the unit. This section of the draft permit establishes . . . JBER’s obligations related to corrective action.” Fact Sheet at 7.

Likewise, the draft permit, the fact sheet, and supporting documentation fail to discuss the subtle, yet significant modification to the interplay between the FFAs and this HWM Permit. As discussed above, the EPA added EAFB and Fort Richardson to the NPL in 1990 and 1994, respectively. 2023 Permit at 17. The Air Force, EPA, and ADEC have been operating under FFAs since 1991 (EAFB) and 1994 (Fort Richardson). *Id.* Since that time, the FFAs have served as the primary vehicle for cleanup at JBER. This was reflected in both the 2003 and 2010 permits. The 2003 permit expressly stated, “the corrective action for [EAFB] will be satisfied by the FFACompliance with the FFA is made a condition of this permit” 2003 Permit at 31, ¶ IV.A.2. The 2003 permit notes that the FFAs satisfy the corrective action requirement of 40 C.F.R. § 261.101 *except* for (1) SWMUs that the parties to the FFA transfer to the RCRA permit, (2) SWMUs the parties to the FFA formally identify as outside the scope, (3) newly identified SWMU that parties to the FFA identify as outside the scope of the FFAs, and (4) SWMUs that are discovered after the termination of the FFA. 2003 Permit at 31, ¶ IV.A.2(a)-(d). The 2023 Permit purports to make corrective action under the permit apply to all newly discovered SWMUs that are not specifically identified in writing as within the scope of the FFAs. 2023 Permit at 18. Thus, without discussing it with the Air Force or addressing this potential change in the context of the FFA, the 2023 Permit seeks to expand upon an exception to the general rule

that newly-identified SWMUs would fall under the FFAs. Again, the fact sheet and presumptive administrative record fail to discuss these significant changes.

Finally, the fact sheet and administrative record also failed to highlight the changes to the definition of “hazardous constituent” in the 2023 Permit. If Region 10 is seeking to expand its regulatory definition via a permit, the administrative record should support, or at least discuss, the justification for doing so.

Taken together, Region 10 failed to properly prepare a fact sheet in accordance with 40 C.F.R. § 124.8, which, in turn, hindered the Air Force from reasonably ascertaining the scope and significance of these new permit conditions. Specifically, the fact sheet, or for that matter any portion of the presumptive administrative record,² fails to address (1) the bases for the inclusion of the new beyond-the-facility corrective actions at Condition III.A.2., which requires the Air Force to “exhaust all options,” (2) the legal and policy justifications for the subtle, yet significant modification to the permit terms that affects the interplay between the FFAs and the HWM Permit; and (3) the bases for modifying the definition of “hazardous constituent.”

Third, even if this Board determines Region 10’s procedural errors did not impact the Air Force’s ability to reasonably ascertain the scope of the new permit conditions, this Board should, nevertheless, grant review given the importance of the issues involved. This Board has granted review in the past even when there are questions regarding whether the procedural requirements were followed.

The Board, *In re Christian County Generation*, recognized “[i]n a few cases involving compelling circumstances, the Board has referred to the importance or significance of an issue

² 40 C.F.R. § 124.18 states the administrative record for a final permit shall consist of all comments and responses, other documents contained in the supporting final, and the final permit, among other requirements. The Air Force was unable to locate any reference in the presumptive administrative file addressing these new permit conditions, including the permit and its nearly 600 pages of attachments.

when reaching the merits of an issue notwithstanding some uncertainty regarding whether the issue was properly preserved.” 13 E.A.D. 449, 461 n.20 (EAB 2008). The Board cited both *In re Campo Landfill Project*, 6 E.A.D. 505 (EAB 1996), and *In re Marine Shale Processors, Inc.*, 5 E.A.D. 751 (EAB 1995), as examples of petitions raising significant questions. The petitioners in *Campo* challenged a decision by EPA to issue a final new source review preconstruction permit for a municipal solid waste landfill. *Campo*, 6 E.A.D. at 506. Specifically, petitioners challenged the manner in which the EPA calculated offsetting emission reductions. *Id.* The Board ultimately held that the issues raised by petitioners were not reasonably ascertainable during the comment period but added “given the importance of the offset requirement, we can exercise our discretion to consider the issue on that basis as well.” *Id.* at 519 n.19.

The petitioners in *Marine Shale* challenged EPA Region VI’s decision to deny a RCRA Permit since petitioners did not meet the specific definition of “industrial furnace.” E.A.D. at 756-57. The EPA argued that the Board should dismiss petitioner’s claims because they failed to preserve the issues for review. *Id.* at 763 n.11. Although the Board found that some of the issues were properly raised, it also held “*given the importance of the issues involved* and the fact that the Region (in responding to comments on the proposed permit denial) proceeded to address many of these issues, the Board has decided that, *regardless of which issues were or were not raised during the comment period*, the Board will examine the merits of [the] petition.” *Id.* (emphasis added) (citing *American Farm Lines v. Black Ball Freight Services*, 397 U.S. 532, 539 (1970) (Agency may relax procedural rules if the ends of justice so require); *In re Genessee Power Station Limited Partnership*, PSD Appeal Nos. 93-1 through 93-7, 4 E.A.D. 832 at 837 n.5 (EAB. Sep. 8, 1993) (excusing failure to comply with filing requirements of 40 C.F.R. § 124.19 given the nature of the deficiency and the importance of the issues involved)).

This Petition for Review, arguably, has further reaching impacts than the denial of one facility's RCRA Permit (*Marine Shale*) and the specific manner in which offset emission reductions are calculated (*Campo*). In relevant part, the Air Force raises issues of whether EPA can purport to impose expansive and onerous requirements for corrective action beyond the facility boundary that far exceed the relevant statutory and regulatory authority of the agency. The contested provision also seeks to impose requirements on the Air Force that it cannot impose on any private parties, which violates RCRA's waiver of sovereign immunity. Moreover, the onerous and expansive requirements that the condition purports to impose, including requiring the military department to pursue condemnation of land and take other drastic corrective action beyond the facility, contravene the Secretary of the Air Force's land acquisition authorities under 10 U.S.C. § 2663. The Permit also alters longstanding FFAs that have been in place for three decades and expands EPA's authority to change the regulatory process of applying newly regulated hazardous constituents to a permit. Additionally, the Permit runs afoul of the ADA in that it presumptively coerces action to obligate funds to require actions that are not legally required. Thus, even if this Board finds that Region 10's failure to comply with 40 C.F.R. § 124.9 did not hinder the Air Force's ability to reasonably ascertain the permit terms, it nevertheless should grant review given the significance of the issues involved.

B. Condition III.A.2 is Inconsistent with RCRA and its Implementing Regulations and Constitutes a “Legislative Rule”

The terms at Condition III.A.2 seek to impose requirements that far exceed the relevant statutory and regulatory requirements. In short, the Permit defies the plain meaning of RCRA Section 3004(v), 42 U.S.C. § 6924(v), and its implementing regulations. Condition III.A.2. also constitutes a “legislative rule,” triggering the need for notice-and-comment rulemaking, because

it substantively changes the existing requirements in EPA's regulations and binds the Air Force as a permit condition.

As explained in the Legal Background section above, Congress directed EPA to promulgate regulations to set performance standards for corrective action, including the specific directive to require corrective action beyond the facility boundary. 42 U.S.C. § 6924(a) & (v). Specifically, RCRA provides that EPA shall amend its corrective action regulations:

“...to require that corrective action be taken beyond the facility boundary where necessary to protect human health and the environment *unless* ... the owner or operator ... demonstrates to the satisfaction of the [EPA] Administrator that, despite the owner or operator's *best efforts*, the owner or operator was *unable to obtain the necessary permission* to undertake such action.”

42 U.S.C. § 6924(v) (emphasis added).

Pursuant to Congress's directive in 42 U.S.C. § 6924(v), EPA promulgated regulations for owners and operators regarding corrective action beyond the facility. 52 Fed. Reg. 45,798 (codified, as amended, at 40 C.F.R. § 264.100(e)(2) & 264.101(c)). These regulations track the “best efforts” language of the 42 U.S.C. § 6924(v) and assign responsibility to the Regional Administrator to determine if the “best efforts” requirement has been satisfied. 40 C.F.R. § 264.100(e)(2) & 264.101(c). The regulations also explain that that the owner or operator is not relieved of all responsibility to cleanup a release beyond the facility boundary where off-site access is denied, and that on-site measures are to be determined on a case-by-case basis. *Id.*

The rulemaking further explained that EPA solicited comments on how “best efforts” should be defined, and what kind of documentation should be required. 52 Fed. Reg. 45,790. Commenters questioned the need for rigid or defined rules as to what constitutes “best efforts,” making note that each circumstance is different. *Id.* Other commenters suggested that a certified letter to the owner requesting access should suffice to demonstrate “best efforts” to obtain

permission. *Id.* EPA explained that it agreed with the commenters who argued for a flexible, case-by-case approach in determining what constitutes “best efforts.” *Id.* It explained that EPA would consider a number of factors when assessing “best efforts,” including the necessity of the off-site investigation, the extent and significance of the release, the contacts made between property owners, and the reasonableness of the efforts. *Id.* EPA further explained that the owner/operators may be required, on a case-by-case basis, to implement certain corrective measures on-site to clean-up releases beyond the facility boundary if such measures are necessary to protect human health and the environment so long as they are possible, legal, and effective. *Id.* at 45,791.

Accordingly, through its promulgation of its regulations, EPA has clearly and unambiguously interpreted the requirements for owners and operators for corrective action beyond the facility boundary in 42 U.S.C. § 6924(v). Specifically, the rules provide that if corrective action beyond the facility boundary is necessary to protect human health and the environment, the permittee is to implement corrective action beyond the facility boundary unless the permittee can show that despite its “best efforts” it was unable to secure necessary approvals. The Regional Administrator is to make a determination of whether the permittee’s “best efforts” were satisfactory, considering the facts and circumstances of the situation. Additionally, on-site measures may be needed to cleanup releases beyond the facility boundary.

The 2023 HWM Permit departs significantly from the controlling regulations and EPA’s stated intentions of the rules. Significantly, the permit replaces the “best efforts” standard with a mandatory “exhaust all options” requirement that goes far beyond the meaning or intent of the statute and regulations. Indeed, the permit goes even further to expressly list actions that the Air Force is required to take, such as purchasing affected land—actions which are not similarly

required of other owners or operators. 2023 Permit at 18, ¶ III.A.2. The Air Force, of course, is not relieved of responsibility to cleanup any releases that migrate beyond the facility boundary, but the terms at Condition III.A.2. defy the plain meaning of Section 6924(v) and its implementing regulations. Additionally, Region 10 is seeking to extend the regulatory standard even further by including a non-exhaustive list of off-site actions that the Air Force *must* pursue to meet the regulatory requirements (*i.e.*, “The Permittee *must exhaust all options* to implement corrective action beyond the facility property boundary, *including but not limited to purchasing affected property by eminent domain, relocating affected populations to new housing, and offering to finance and construct satisfactory water supply utilities to affected properties before making a demonstration, in accordance with 40 C.F.R. § 264.101.*”). Thus, Condition III.A.2 seeks to replace the “best efforts” regulatory requirement with “exhaust all options” and includes a non-exhaustive list of things that the Air Force must pursue to satisfy the regulatory requirement. This is not merely listing potential options for corrective actions – it is seeking to mandate specific actions that are far beyond the requirements set by EPA in its regulations and contrary to EPA’s explanation of its intentions when it promulgated the rules. Condition III.A.2., thus, is clearly erroneous as a matter of law.

Condition III.A.2 also seeks to impose a legislative rule, which first requires promulgation of new regulations through notice and comment rulemaking. In general, there are two types of regulations: interpretive and legislative:

An interpretive rule simply states what the administrative agency thinks the [underlying] statute means, and only “reminds” affected parties of existing duties. On the other hand, if by its action the agency intends to create new law, rights or duties, the rule is properly considered to be a legislative rule.

United Technologies Corp. v. EPA, 821 F.2d 714, 718 (D.C. Cir. 1987) (internal citations omitted).³

The Administrative Procedures Act (“APA”) requires notice and comment rulemaking for legislative rules. 5 U.S.C. § 553. The contested permit provision purports to supplant the clear and unambiguous EPA interpretation of 42 U.S.C. § 6924(v) contained at 40 C.F.R. §§ 264.100(e)(2) & 264.101(c) with more expansive requirements. For EPA to impose this requirement, it must first promulgate new regulations through notice and comment rulemaking. As the D.C. Circuit Court of Appeals noted in *U.S. Telecom. Ass'n v. FCC*, “if an agency adopts ‘a new position inconsistent with’ an existing regulation, or effects ‘a substantive change in the regulation,’ notice and comment are required.” 400 F.3d 29, 35 (D.C. Cir. 2005) (quoting *Shalala v. Guernsey Mem'l Hosp.*, 514 U.S. 87, 100 (1995)).

Indeed, courts have found permit conditions are “‘the clearest possible example of a legislative rule’ because it is intended to impose new duties, rights, and obligations on permit holders.” *National Ski Areas Ass'n, Inc. v. U.S. Forest Service*, 910 F. Supp. 2d 1269, 1282 (D. Colo. 2012) (quoting *Mission Group Kansas, Inc. v. Riley*, 146 F.3d 775, 784 (10th Cir. 1998)).

A key factor in assessing whether an agency action amounts a legislative rule or a mere interpretation depends, in large part, on whether the action is binding. For example, petitioners in *Iowa League of Cities v. EPA* appealed two letters EPA sent to Senator Charles Grassley of Iowa, arguing these letters established new regulatory requirements for processes at municipally owned sewer systems. 711 F.3d 844, 854 (8th Cir. 2013). EPA argued that the guidance letters

³ *United Technologies* related to a challenge to the 1985 EPA rulemaking discussed in the Legal Background Section above. At that time, the controlling regulations at issue in this case were not yet promulgated, but EPA indicated that it intended to implement 42 U.S.C. § 6924(v) directives on a case-by-case basis. In dicta, the D.C. Circuit stated that the requirements of 42 U.S.C. § 6924(v) requiring an owner or operator to use best efforts to take corrective action beyond the facility boundary “is satisfied if the owner or operator ‘is unable to obtain the necessary permission to undertake such action.’” 821 F.2d at 722.

merely reflected existing regulatory requirements. *Id.* The court disagreed holding that the letters constituted “promulgations” since the letters had a binding effect on the regulated entities. *Id.* at 863. The court found:

When an agency creates a new “legal norm based on the agency's *own authority*” to engage in supplementary lawmaking, as delegated from Congress, the agency creates a legislative rule. Expanding the footprint of a regulation by imposing new requirements, rather than simply interpreting the legal norms Congress or the agency itself has previously created, is the hallmark of legislative rules [which requires rulemaking under the APA].

Id. at 873 (emphasis in original) (citations omitted). Likewise, in *National Ski Area*, the court held that a Forest Service directive that created binding legal obligations that Forest Service line officers then inserted into ski area permits constituted a “legislative rule” since the clauses imposed new rights and obligations beyond the existing statutory and regulatory language. 910 F. Supp 2d at 1281.

The terms at Condition III.A.2. purport to bind the Air Force, and Region 10 is creating a new legal norm based on their own authority (*i.e.*, Region 10 is engaging in supplementary rulemaking). The permit is unlawful because it seeks to impose requirements in contravention of the APA requirement for notice and comment rulemaking for legislative rules by seeking to change the requirement from “best efforts” to “must exhaust all options.” That is, Region 10 is “[e]xpanding the footprint of a regulation by imposing new requirements, rather than simply interpreting the legal norms Congress or the agency itself has previously created.” *Iowa League of Cities*, 711 F.3d at 873. Thus, this Condition is invalid under the APA and clearly erroneous as a matter of law.⁴

⁴ If this Board finds that the permit conditions constitute a “legislative rule,” the conditions may also violate the Regulatory Flexibility Act, 5 U.S.C. §§ 603 *et seq.*, which requires agencies to conduct a regulatory flexibility analysis examining the impacts of regulations on small businesses. 5 U.S.C. §603(a); *U.S. Cellular Corp v. FCC*, 254 F.3d 78,88 (D.C. Cir. 2001) (“[The RFA] obliges federal agencies to assess the impact of their regulations on small businesses).

Moreover, the substantive requirements in this condition significantly depart from EPA’s explanation of the requirements included in the final rule. The draft permit, fact sheet, and all other accompanying documentation in the presumptive administrative record are devoid of any explanation as to whether there is an existing or threatened release that may go beyond the facility boundary, the extent and significance of the release, and what measures the permittee has made to secure access. Yet, Condition III.A.2 includes a non-exhaustive list of actions that the Air Force must do to “exhaust all options” to otherwise satisfy 40 C.F.R. § 264.101. EPA explained that it wrote the regulatory provision to be flexible, based on the facts and circumstances of the situation, and based on whether such measures are necessary to protect human health and the environment, and if they are possible, legal, and effective. 52 Fed. Reg. 45,791. Yet, the 2023 Permit purports to pre-determine that unless the Air Force condemns the land, relocates affected populations to new housing, and offers to finance and construct satisfactory water utilities to affected properties, it will not be found to satisfy the requirements of 40 C.F.R. § 264.101.⁵ This is a significant departure from EPA’s stated intentions of this regulation. Moreover, because it is a permit requirement, this condition would presumptively be enforceable by EPA under this permit or through a citizen suit. 42 U.S.C. § 6972(a)(1). This Condition, thus, is clearly erroneous as a matter of law.

By way of illustration, to resolve RCRA enforcement actions where EPA alleges violations of environmental statutes, EPA and private parties have entered consent decrees that detail efforts that are required to remedy the specific deficiencies that gave rise to the

⁵ As noted above, *supra* note 1, permit conditions not required by final regulations must also be defended as appropriate on a case-by-case basis to avoid unnecessary or inappropriate burdens upon the permittee. *In re Caribe General Electric Products, Inc.*, 8 E.A.D. 696, 703 (EAB 2000) (*citing In re General Motors Corp., Delco Moraine Div.*, 4 E.A.D. 334, 343 n.15 (EAB 1992)). This is also absent from the administrative record.

enforcement action. *See, e.g., United States v. Nucor Corp.*, 2000 EPA Consent LEXIS 899 (Dec. 19, 2000). In the *Nucor* consent decree, the case-specific requirements relating to securing off-facility permissions were tied to the “best efforts” statutory and regulatory requirement. *Id.* at *68. Specifically, the consent decree stated that “best efforts” would include at a minimum, a certified letter to the present owner requesting access agreements, and payment of reasonable sums of money in consideration of granting such access. *Id.* Additionally, the consent decree requires the private party to notify EPA if they are unable to secure access agreements, and if so, EPA may assist in obtaining access. *Id.* at *68-*69. EPA also has authority under the decree to secure access and undertake EPA approved work on the property. *Id.* at *69. Thus, even in a situation so serious as to require EPA to file an enforcement action, the enforcement consent decree limits the actions required to presenting a certified letter and payment of reasonable sums of money in consideration of such access.

Considering the foregoing, Condition III.A.2 is clearly erroneous as a matter of law and raises important policy considerations that EAB should, in its discretion, review given the wide-ranging implications of this new found authority at any site in the United States requiring corrective action beyond the facility. 40 C.F.R. § 124.19(a)(4)(i)(B).

C. The Power to Purchase or Condemn Land is vested in the Secretary of the Air Force – not the EPA

Condition III.A.2. not only exceeds EPA’s authority under RCRA, but also seeks to usurp the Secretary of the Air Force’s sole authority to acquire land for military operations. Pursuant to 10 U.S.C. § 2663, the Secretary of a military department has authority to acquire land via purchase or condemnation for certain limited military purposes, such as constructing military training camps or manufacturing facilities. 10 U.S.C. § 2663(a)-(b); *See also Southern Pacific Land Co. v. United States*, 367 F.2d 161, 162 (9th Cir. 1966), cert. denied, 386 U.S. 1030 (1967)

(affirming district court holding that the extent and nature of land to be acquired by the military is solely within the authority of the applicable Secretary). Furthermore, 10 U.S.C. § 2664 expressly outlines limitations on military departments acquiring real property, noting “[n]o military department may acquire real property not owned by the United States unless the acquisition is expressly authorized by law.” 10 U.S.C. § 2664(a).

Read together, military departments, including the Department of the Air Force, are prohibited from acquiring property, either via purchase or condemnation, unless the Secretary makes the specific findings outlined in Section 2663. The EPA, thus, does not have the authority to direct the Air Force to “exhaust all options” for corrective actions including “purchasing affected property by eminent domain.” 2023 Permit at 18, ¶ III.A.2. To do so, undermines the Secretary of the Air Force’s statutory discretionary authority. This is clearly erroneous as a matter of law and raises important policy consideration that the EAB should, in its discretion, review. 40 C.F.R. § 124.19(a)(4)(i)(B).

D. Condition III.A.2 is Inconsistent with RCRA’s Waiver of Sovereign Immunity

Condition III.A.2 is also discriminatory towards the Air Force and does not fall within RCRA’s limited waiver of sovereign immunity since it purports to require the Air Force to take actions that are not and cannot be imposed on other “persons.”

As sovereign, the United States, in the absence of its consent, is immune from suit or state regulation. *Library of Congress v. Shaw*, 478 U.S. 310, 315 (1986) (citing *U.S. v. Sherwood*, 312 U.S. 584 (1941)). RCRA contains a limited waiver for federal facilities as to “[f]ederal, State, interstate, and local requirements, both substantive and procedural . . . respecting control and abatement of solid waste or hazardous waste disposal and management *in the same manner, and to the same extent, as any person is subject to such requirements.*” 42

U.S.C. § 6961(a) (emphasis added).⁶ Waivers of immunity must “be construed strictly in favor of the sovereign and not enlarge[d] . . . beyond what the language requires.” *Ruckelshaus v. Sierra Club*, 463 U.S. 680, 685 (1983) (quoting *McMahon v. U.S.*, 342 U.S. 25, 27 (1951); *Eastern Transp. Co. v. U.S.*, 272 U.S. 675, 686 (1927) (internal citations removed)). The RCRA waiver, thus, does not extend to permit provisions that EPA lacks authority to lawfully impose – *i.e.*, to terms that are not applied “in the same manner, and to the same extent, as any person is subject to such requirements.”

Condition III.A.2 seeks to impose additional requirements than those that are or could be required for similarly situated “persons.” Condition III.A.2 requires the Air Force to “purchas[e] affected property by eminent domain” to satisfy the requirements of 40 C.F.R. § 264.101. It is axiomatic that private persons cannot condemn land. Additionally, neither 42 U.S.C. § 6924(v) nor EPA’s implementing regulations require private owners or operations to seek to purchase affected property to satisfy their “best efforts.” The limited waiver is to apply in “*the same manner, and to the same extent, as any person.*” A reviewing court strictly construing the waiver would find that the contested provision is unlawful because it seeks to impose more requirements than EPA seeks to impose on a private person.

Additionally, by purporting to replace the requirements in the EPA’s regulations with the contested language in Condition III.A.2, Region 10 seeks to make the Air Force pursue off-base corrective actions to all ends. Based on a reasonable interpretation of the implementing regulations and EPA’s own statements, other permittees have the option of demonstrating to the

⁶ Several federal environmental statutes contain identical limiting language in their respective waivers of sovereign immunity. *See* Clean Air Act, 42 U.S.C. § 7418 (“in the same manner, and to the same extent, as any nongovernmental entity”); Safe Drinking Water Act, 42 U.S.C. § 1447 (“in the same manner, and to the same extent, as any person”); Environmental Response, Compensation, and Liability Act, 42 U.S.C. § 9620(a)(1) (“in the same manner and to the same extent . . . as any nongovernmental entity”); Clean Water Act, 33 U.S.C. § 1323(a) (“in the same manner, and to the same extent as any nongovernmental entity”).

EPA Administrator that they have taken their “best efforts” to implement the corrective actions. 40 C.F.R. §§ 264.100(e)(2) & 264.101(c). For example, in 2021 this Board approved a consent decree in the matter of *US Technology Media, Inc.* wherein the parties defined the efforts needed to satisfy “best efforts” for beyond the facility corrective actions. The Final Order states:

To the extent that work being performed pursuant to this CA/FO must be done beyond the facility’s property boundary, Respondent shall use its best efforts to obtain access agreements necessary to complete work required by this CA/FO from the present owner(s) of such property within forty-five (45) calendar days of approval of any Facility Work Plan for which access is required. Best efforts as used in this paragraph *shall include, at a minimum, a certified letter from Respondent to the present owner(s) of such property requesting access agreement(s) to permit Respondent*

In re: US Technology Media, Inc., Docket Nos. RCRA-HQ-2021-5006, RCRA-04-2021-2110(b), RCRA-05-2022-0001, RCRA-08-2022-0001, Final Consent Decree at 19, ¶ 103.⁷

Although the consent decree is not binding on the parties to this dispute, it is nevertheless illustrative of the “best efforts” process outlined in RCRA and its implementing regulations. The type of “best efforts” in the *US Technology* consent decree also mirrors what EPA initially considering when promulgating the regulations. 52 Fed. Reg. 45,790 (“[T]he Agency believes that efforts to seek permission should, at a minimum, be demonstrated through a certified letter (or equivalent demonstration) from the owner/operator.”). Requiring a Permittee to “exhaust all options” is a stark difference than sending a certified letter requesting an access agreement.

Thus, Condition III.A.2 seeks to impose additional requirements on the Air Force that are not and cannot be imposed on a private person. As such, the contested condition is not within RCRA’s limited waiver of sovereign immunity. This is clearly erroneous as a matter of law and

⁷ Available at: [https://yosemite.epa.gov/oa/EAB_Web_Docket.nsf/Unpublished~Final~Orders/0C8C29FEA13301658525878E0060325D/\\$File/US%20Technology%20Media%20Final%20Order%20and%20Consent%20Agreement.pdf](https://yosemite.epa.gov/oa/EAB_Web_Docket.nsf/Unpublished~Final~Orders/0C8C29FEA13301658525878E0060325D/$File/US%20Technology%20Media%20Final%20Order%20and%20Consent%20Agreement.pdf).

raises important policy consideration that the EAB should, in its discretion, review. 40 C.F.R. § 124.19(a)(4)(i)(B).

E. Condition III.A.2 is Inconsistent with the Anti-Deficiency Act

Purporting to require the Air Force to “exhaust all options” to implement corrective action beyond the facility boundary and pursue a non-exhaustive list to satisfy the regulatory standard serves as an open-ended, potentially unrestricted liability, which runs afoul of the ADA, 31 U.S.C. § 1341. Moreover, Condition III.A.2. is otherwise unenforceable as a matter of law and, thus, the Air Force is prohibited from obligating funds under the ADA since these are unnecessary expenses. As such, this condition is clearly erroneous.

The ADA prohibits an officer or employee of the federal government from either (1) making or authorizing an expenditure or obligation exceeding the amount that Congress has appropriated, or (2) involving the government in a contract or obligation for the payment of money before an appropriation is made. 31 U.S.C. § 1341(a)(1). The ADA is often described as placing restrictions on the “purpose, time, and amount” of government obligations. Office of the Gen. Counsel, U.S. Gen. Accounting Office, *Principles of Federal Appropriations Law* at 1-23 (4th ed. 2016).⁸ The Comptroller General and Court of Claims have repeatedly held that “contractual agreements that create contingent liabilities for the Government serve to create obligations of funds just as much as do agreements creating definite or certain liabilities. The contingent nature of the liability . . . does not so lessen its effect on appropriations as to make it immune to the limitations of [the Antideficiency Act].” *Johns-Manville Corp. v. United States*, 12 Cl. Ct. 1, 25 (1987) (citing 63 Comp. Gen. 145, 147 (1984)) (“All types of contingent liabilities involve a risk that occurrence of the applicable contingency could result in an

⁸ Available at: <https://www.gao.gov/assets/2019-11/675699.pdf>

obligation in excess of available funds."); *See also* Office of the Gen. Counsel, U.S. Gen. Accounting Office, Principles of Federal Appropriations Law at 6-59 to 6-70 (3d. ed. 2006) (discussing dozens of cases involving indeterminate liabilities).⁹

The Federal Circuit Court of Appeals has succinctly summarized the ADA's purpose and background: "The statute addressed the problem that Executive Branch officials were obligating funds before they were appropriated by Congress, and then making deficiency requests for appropriations that Congress had little choice in deciding because government agencies had basically committed the United States to make good on its promises." *Cessna Aircraft Co. v. Dalton*, 126 F.3d 1442, 1448-1449 (Fed. Cir. 1997) (citing 59 Comp Gen. 369, 372 (1980)).

Condition III.A.2. creates contingent, open-ended liability for otherwise unenforceable permit terms, and, thus, violates the ADA. Although the 2023 Permit contains a statement that "no provision . . . shall be interpreted to require the Permittee to obligate funds in violation of the [ADA]," the Permit nevertheless requires the Air Force take extra-lawful requirements, as discussed in Section IV.B. of this Petition (*i.e.*, Condition III.A.2 seeks to hold the Air Force to a higher "exhaust all options" standard). As currently written, Condition III.A.2 also includes a non-exhaustive list of required actions that the Air Force *must* comply with – purchasing affected property, relocating affected populations, and financing and constructing water supply utilities. The cost to pursue such action is (1) beyond what is otherwise required to meet the legal standard, and therefore an "unnecessary expense" under the ADA and (2) creates a contingent, open-ended liability in violation of the ADA. Condition III.A.2., in effect, serves as a "coercive deficiency" and thus is clearly erroneous as a matter of law. *Matter of: Project Stormfury - Austl. - Indemnification*, 1980 U.S. Comp. Gen. LEXIS 144, *7 (Comp. Gen. April 4, 1980) (finding

⁹ Available at: <https://www.gao.gov/assets/2019-11/202819.pdf>

that a binding contract that contains a clause violating the ADA creates a “coercive deficiency” for Congress to appropriate additional money).

In sum, Condition III.A.2. forces the Air Force to obligate funds for unnecessary expenses that are otherwise unenforceable as a matter of law and creates an open-ended, contingent liability. This violates the purpose, time, and amount provisions of the ADA and is clearly erroneous as a matter of law and raises important policy consideration that the EAB should, in its discretion, review. 40 C.F.R. § 124.19(a)(4)(i)(B).

F. The 2023 Permit Contravenes the FFAs

The 2023 Permit upsets the long-standing process for cleanup at JBER under the FFAs. The Permit not only contradicts the plain meaning of the FFAs but also the recent actions of the parties. Prior to the consolidation of Elmendorf AFB and Fort Richardson, both installations entered into FFAs with the EPA and ADEC pursuant to CERCLA. 2023 Permit at 17. These FFAs remain in effect today and have served as the primary tool for hazardous waste cleanup at JBER for the past three decades.

The general purposes outlined in both FFAs underscore that they are to serve as the primary cleanup tool at JBER. The Elmendorf FFA states, “the purposes of this Agreement are to . . . [a]ssure compliance, through this Agreement, with RCRA and other federal state and hazardous waste laws and regulations for matters covered herein” Elmendorf FFA at 13, ¶ 3.2(e). This language is mirrored in the subsequent Richardson FFA. Richardson FFA at 11, ¶ 3.1(f). Likewise, both FFAs specifically discuss CERCLA-RCRA integration. Elmendorf FFA at 15-17; Richardson FFA at 13-15. The agreements proclaim that “[t]he Parties intend to integrate [] CERCLA response obligations and RCRA corrective actions obligations that 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 the activities covered by this Agreement will achieve compliance with CERCLA . . . [and] satisfy the corrective action requirements of Sections 3004(u) and (v) of RCRA” Elmendorf FFA at 15, ¶ 5.1; Richardson FFA at 13, ¶ 5.1.

The FFAs also contemplate the addition of newly discovered source areas and provide a means for modifying the agreements to include said units. For example, the Richardson FFA plainly states, “[t]he Army shall provide notification to U.S. EPA and ADEC within thirty (30) days of identifying a new potential source area. *Unless the Parties agree on another disposition, new source areas will be addressed under the last scheduled OU*” Richardson FFA at 53, ¶ 24.3 (emphasis added). Likewise, under the EAFB FFA, “[a]ny ecological or human health cumulative risks effects which may become evident from the aggregate of source areas at EAFB not addressed in the prior OU RI/FS will be covered under [Operable Unit 6].” EAFB FFA at A-2, ¶ 2. That is, new source areas fall under OU-6 as a default. Thus, the FFAs clearly declare that they are to serve as the primary cleanup tool for response actions at Fort Richardson and Elmendorf AFB under CERCLA and RCRA. Moreover, both FFAs further provide that any modifications to the scope of work “may be effected by the *unanimous agreement*” of the parties. EAFB FFA at 60, ¶ 33.1; Fort Richardson FFA at 61-62, ¶ 33.1.

The parties entered into the first HWM permit in 2003, which incorporated the terms and provisions of the FFA. 2003 Permit at 31, ¶ IV.A.1. In the event the parties decided that the cleanup was outside of the FFA (*e.g.*, if the parties agreed to transfer a unit to the new HWM Permit or if a SWMU was discovered after the termination of the FFAs), then the cleanup would be addressed pursuant to the HWM permit’s corrective action provisions. *See* 2003 Permit at 31, ¶¶ IV.A.2(a)-(d). The parties, thus, intended the HWM permit to serve as a backstop in the event

a cleanup fell outside the agreement. This same language was again mirrored in the 2010 permit. 2010 Permit at 32, ¶ IV.A.1.

This CERCLA-RCRA integration and relationship between the FFAs and HWM Permit has played out as intended between the parties. For example, in recent years the parties have agreed to incorporate a waste oil tank into the FFA and, as recent as 10 March 2023, the parties incorporated 19 sites exceeding per- and poly-fluoroalkyl substances (“PFAS”) soil and groundwater regional screening levels into the FFA. Both incorporations are attached to this Petition. *See* Attachment I (Waste Oil Tank) & Attachment J (PFAS Sites).¹⁰

The 2023 Permit, however, alters the FFAs (and deviates from the 2010 and 2003 Permits) whereby anything not expressly included in the FFAs is transferred to the 2023 Permit. In essence, it flips the presumption under the FFAs wherein newly-discovered units fell within the agreement. Under the 2023 Permit, any newly-discovered unit would circumvent the FFA and fall directly under the HWM Permit. Moreover, as discussed above, this drastic upheaval of the FFA-HWM Permit relationship was not discussed in the fact sheet or administrative record. Upon information and belief, EPA did not discuss this change in the context of the FFA. And, the record contains no discussion as to the factual, legal, or policy bases for this modification.

Seeking to unilaterally change the way that environmental remediation is to occur at JBER by adding the contested provision was clearly erroneous under the arrangement and subsequent practice of the parties under the FFAs. Alternatively, if EPA believes that, notwithstanding the decades of operating under and the express language of the FFAs and prior permits, that EPA may unilaterally expand its corrective action authority under the HWM

¹⁰ If Attachments I and J are not included in EPA’s administrative record, the Air Force will timely move to supplement the record or take other appropriate action to ensure that these Attachments are considered by the Board in this Petition.

Permit, then it raises important policy consideration that EAB should, in its discretion, review. 40 C.F.R. § 124.19(a)(4)(i)(B).

G. The Definition of Hazardous Constituent Is Inconsistent with RCRA

Region 10's modification of the definition of "hazardous constituent" in the Permit is inconsistent with RCRA and its implementing regulations. The plain language of RCRA's corrective action regulations at 40 C.F.R. § 264.101 requires corrective action only for specifically identified regulatory hazardous waste and constituents. The regulations further state that any statutory or regulatory requirements in a permit take effect *prior* to the issuance of said permit. 40 C.F.R. § 270.32(c) ("For a permit issued by EPA, an applicable requirement is a statutory or regulatory requirement . . . which takes effect prior to the issuance of the permit."). The regulations do provide a means for reopening EPA permit proceedings "where new requirements become effective during the permitting process . . ." *Id.* Regulations that add new hazardous constituents to the list of regulated substances subject to RCRA corrective action may also provide a basis for a modification to a permit. 40 C.F.R. § 270.41(a)(3).

The 2003 Permit defines "hazardous constituent" as "any constituent identified in Appendix VII of 40 CFR Part 261, or any constituent identified in Appendix IX of 40 CFR Part 264." 2003 Permit at 9(h). This language is mirrored in the 2010 HWM Permit. 2010 Permit at 9(h). However, the 2023 Permit expands the definition of "hazardous constituent," which now includes not only the constituents identified in Appendix VIII of 40 CFR Part 261 or constituents in Appendix IX of 40 CFR Part 264 *but also* "any newly regulated hazardous constituents." 2023 Permit at 3. This is improper since new regulations do not automatically expand the definition of "hazardous constituent," and by extension the scope of corrective action in existing permits. In essence, Region 10 is seeking to do an end-run around the legally prescribed procedures for

adding new constituents to a HWM permit. Rather than improperly expanding the definition of “hazardous constituent,” EPA must follow the procedures in 40 CFR Part 270 to properly update the HWM Permit.

Additionally, the draft permit, fact sheet, and supporting documentation fail to provide a determination of necessity or otherwise provide a basis for proposing to make the definition of “hazardous constituent” in the HWM Permit inconsistent with the RCRA regulations. Thus, purporting to add “newly regulated hazardous constituents” to the definition of “hazardous constituents” is clearly erroneous as a matter of law and is inconsistent with EPA regulations and raises important policy consideration that EAB should, in its discretion, review. 40 C.F.R. § 124.19(a)(4)(i)(B).

V. CONCLUSION

This Board should grant the Air Force’s Petition to Review due to procedural defects during the permit process, which hindered the Air Force from reasonably ascertaining the scope and significance of the modified permit conditions. Region 10 failed to include in the Permit, the fact sheet, or anywhere in the presumptive record an explanation of the “principal facts and significant factual, legal, methodological, and policy questions” they considered when drafting the contested provisions. Additionally, the 2023 Permit contains several significant issues worthy of this Board’s review even if the Board finds that there is some uncertainty regarding whether issues were properly preserved.

The Air Force challenges three specific permit terms. First, the terms at Condition III.A.2 are clearly erroneous as a matter of law. This disputed provision is unlawful because it attempts to hold the Air Force to a higher standard than what is contained at Section 6924(v) and EPA’s implementing regulations. It is a legislative rule, requiring notice and comment rulemaking.

Condition III.A.2. purports to order actions that the Air Force alone has discretion to decide and that could not otherwise be imposed on private parties. This contested provision also violates the limited waiver of sovereign immunity because it seeks to impose requirements that are not and cannot be imposed on private persons. Condition III.A.2. also purports to obligate funds on an indefinite, contingent basis for actions that are not required by law, which violates the ADA.

This Permit also upsets the plain meaning of the FFAs by excluding any SWMUs that are not otherwise included in the current FFA – despite the fact that the FFAs specifically note “any new sources areas will be addressed under the [FFA].” Richardson FFA at 53, ¶ 24.3. This modification also undermines the recent practice between Region 10 and JBER wherein multiple units that were not originally included in the FFAs were recently added under the agreement. *See* Attachments I & J. Despite these significant departures from the 2003 and 2010 HWM Permits, Region 10 failed to discuss the justification or provide a basis for such drastic changes.

Third, Region 10 seeks to improperly modify the definition of “hazardous constituent” in contravention to RCRA and its implementing regulations. This attempt to change the permitting process is clearly erroneous as a matter of law.

Thus, the Air Force asks this Board to remand the Permit to Region 10 for reconsideration regarding (1) the terms contained at Condition III.A.2., (2) the scope of the Permit as it relates to the FFAs, and (3) the expanded definition of “hazardous constituent.”

Date: October 30, 2023

U.S. DEPARTMENT OF THE AIR FORCE,
REGIONAL COUNSEL'S OFFICE

By: _____
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*Attorney for Petitioner,
United States Department of the Air Force*

TABLE OF ATTACHMENTS

Attachment A – 2023 Permit without Attachments

Attachment B – Fact Sheet

Attachment C – Elmendorf AFB FFA

Attachment D – Fort Richardson FFA

Attachment E – 2003 Permit without Attachments

Attachment F – 2010 Permit without Attachments

Attachment G – RCRA Part A Application

Attachment H – Response to Comments

Attachment I – Waste Oil Tank Decision Letter

Attachment J – PFAS Decision Letter

STATEMENT REQUESTING ORAL ARGUMENT

The Air Force is requesting oral argument for several reasons. Both parties are instrumentalities of the federal government, and, thus, the imposition of these permit conditions, which in the Air Force's view is beyond EPA's statutory mandate, has implications far beyond this permit. The EPA appears to have exceeded not only their own statutory and regulatory authority under RCRA but also is usurping the Secretary of the Air Force's sole authority regarding land acquisitions pursuant to 10 U.S.C. § 2663. The Permit also alters longstanding FFAs and cleanup at JBER that has been ongoing for nearly three decades. The implications of this Permit loom large and warrant oral argument.

STATEMENT OF COMPLIANCE WITH WORD LIMITATION

I, Steven M. McKeveatt, hereby certify, in accordance with 40 CFR 124.19(d)(1)(iv), that this Petition for Review, including all relevant portions, contains less than 14,000 words.

DATE: October 30, 2023

CERTIFICATE OF SERVICE

I, Steven M. McKeveitt, hereby certify that, on October 30, 2023, I caused to be served a true and correct copy of the foregoing Petition for Review, via e-mail, to the following addresses:

Nick Vidargas
Assistant Regional Counsel
Office of Regional Counsel
U.S. EPA, Region 10
Sent via email to: vidargas.nick@epa.gov

U.S. EPA, Region 10
Sent via email to: R10-ORA@epa.gov

On October 27, 2023, Assistant Regional Counsel Nick Vidargas consented to service via e-mail and provided the above-referenced email addresses for service. Mr. Vidargas indicated that his office would file an Acknowledgement of Consent with this Board upon the Air Force's filing of this Petition.

Dated on the 30th day of October 2023.

Steven M. McKeveitt

ATTACHMENT A

FINAL

**RESOURCE CONSERVATION AND RECOVERY ACT
HAZARDOUS WASTE MANAGEMENT FACILITY PERMIT**

EPA I.D. No. AK8 57002 8649

September 2023

Issued to:

Joint Base Elmendorf-Richardson

Anchorage, Alaska

Page i
Permit No. AK8 57002 8649
Expiration Date: October 29, 2033
FINAL PERMIT

HAZARDOUS WASTE MANAGEMENT FACILITY PERMIT

U.S. Environmental Protection Agency, Region 10
1200 Sixth Avenue, Suite 155
Seattle, Washington 98101
(206) 553-1200

Issued in accordance with the Resource Conservation and Recovery Act as amended, 42 United States Code (USC) § 6901 *et seq.* (RCRA), which incorporates the Hazardous and Solid Waste Amendments of 1984 (HSWA), and in accordance with the implementing regulations codified in Title 40 of the Code of Federal Regulations (CFR) Parts 124 and 260 through 270.

ISSUED TO: Joint Base Elmendorf-Richardson
EPA I.D. No.: AK8 57002 8649

This Permit is effective as of October 30, 2023, and shall remain in effect until October 29, 2033, unless revoked and reissued under 40 CFR § 270.41, or terminated under 40 CFR § 270.43, or continued in accordance with 40 CFR § 270.51(a). This Permit will be reviewed five (5) years after the date of issuance, in accordance with Section 3005(c)(3) of RCRA, 42 U.S.C. § 6925(c)(3), and 40 CFR § 270.50, and will be modified to assure that the facility continues to comply with the currently applicable requirements of Sections 3004 and 3005 of RCRA, 42 U.S.C. §§ 6924 and 6925.

ISSUED BY: U.S. ENVIRONMENTAL PROTECTION AGENCY

Digitally signed
by TIMOTHY
HAMLIN
Date: 2023.09.29
15:03:04 -07'00'

Timothy B. Hamlin, Director
Land, Chemicals and Redevelopment Division
U.S. Environmental Protection Agency, Region 10

Date: 9/29/23

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Part III Corrective Action for Solid Waste Management Units	17

LIST OF ATTACHMENTS

The following attachments are hereby incorporated as enforceable conditions of this Permit. In the event of any inconsistencies between a permit condition and an attachment, the permit condition shall prevail.

Attachment 1	RCRA Part A Application (November 2022)
Attachment 2	Facility Description (November 2022)
Attachment 3	Contingency Plan (November 2022)
Attachment 4	Facility Location Information (November 2022)
Attachment 5	Description of Solid Waste Management Units (November 2022)
Attachment 6a	Elmendorf AFB Federal Facility Agreement (September 1991)
Attachment 6b	Fort Richardson Federal Facility Agreement (December 1994)
Attachment 7	Interim Closure Plan for OB/OD Area (November 2022)
Attachment 8	List of Solid Waste Management Units (November 2022)

INTRODUCTION

Permittee: Joint Base Elmendorf-Richardson
EPA ID Number: AK8 57002 8649

Pursuant to RCRA and its implementing regulations as promulgated by the EPA, a hazardous waste facility permit is hereby issued to Joint Base Elmendorf-Richardson (Permittee) for closure of an open burning/open detonation (OB/OD) unit and for corrective action at all solid waste management units (SWMUs) at the Joint Base Elmendorf-Richardson Facility, geographically located on 74,297 acres of land contiguous to the north side of the Municipality of Anchorage, Alaska, at 61 degrees, 14 minutes north latitude and 149 degrees, 48 minutes west longitude (Facility).

The Permittee must comply with all terms and conditions of this hazardous waste facility permit. This Permit consists of the conditions contained herein (including those in any attachments), and the applicable regulations in 40 CFR Parts 124 and 260 through 270. Any management of hazardous waste at the Facility which is not authorized by this Permit is prohibited.

Nothing in this Permit shall limit the EPA's authority to undertake, or require any person to undertake, response action, corrective action, or enforcement action under any law, including, but not limited to, the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 USC § 9601 *et seq.* (CERCLA) and RCRA. Nor shall any permit condition relieve the Permittee of any obligation under any law, including, but not limited to, § 103 of CERCLA, 42 USC § 9603, an obligation to report releases of hazardous waste, constituents, or substances to, at, or from the Facility.

Applicable federal regulations are those which are in effect on the date of final administrative action on this Permit and any self-implementing statutory provisions and related regulations which, according to the requirements of RCRA, are automatically applicable to the Permittee's hazardous waste management activities, notwithstanding the conditions of this Permit.

This Permit is based upon the administrative record, as required by 40 CFR § 124.9. The Permittee's failure in the Part B Permit Application or during the Permit issuance process to fully disclose all relevant facts, or the Permittee's misrepresentation of any relevant facts at any time, shall be grounds for the termination or modification of this Permit and/or initiation of an enforcement action, including criminal proceedings. The Permittee shall inform the Administrator of noncompliance with any condition of the Permit or changes to the information provided in the Part B Permit Application that might affect the ability of the Permittee to comply with applicable regulations and permit conditions, or which alter any of the conditions of the Permit in any way.

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Permit No. AK8 57002 8649
Expiration Date: October 29, 2033
FINAL PERMIT

This Permit includes requirements for corrective action for all releases of hazardous waste and/or constituents from all SWMUs at the Facility regardless of when the waste and/or constituent was placed in such unit.

The State of Alaska does not currently have an authorized RCRA program pursuant to § 3006 of RCRA, 42 USC § 6926. Therefore, this RCRA hazardous waste management facility Permit is issued by the EPA.

DEFINITIONS

For purposes of this Permit, all definitions contained in 40 CFR Parts 124 and 260 through 270, are hereby incorporated by reference into this Permit. Where terms are not defined in the regulations or in this section of the Permit, the meaning associated with such terms shall be the standard dictionary definition, or their generally accepted scientific or industrial meaning. In addition to the preceding, the following definitions shall apply:

“Administrator” shall mean the Region 10 Regional Administrator of the EPA or the designated representative. The Director, Land, Chemicals and Redevelopment Division, EPA, Region 10 (whose address is specified on page “i” of this Permit), is the duly authorized and designated representative of the Administrator for purposes of this Permit.

“Daily” shall mean regular workdays, except that no more than four (4) consecutive calendar days shall fall between groups of **“daily”** activities required by this Permit.

“Day” shall mean, unless otherwise noted, calendar time, e.g., thirty (30) days means thirty (30) calendar days.

“Facility” shall mean all contiguous land, and structures, other appurtenances, and improvements on the land, used for treating, storing, or disposing of hazardous waste, or for managing hazardous secondary materials prior to reclamation. For purposes of implementing corrective action, the term shall mean all contiguous property under the control of the owner/operator.

“Hazardous constituent” shall mean any constituent identified in Appendix VIII of 40 CFR Part 261, or any constituent identified in Appendix IX of 40 CFR Part 264, and any newly regulated hazardous constituents.

“Open Burning/Open Detonation (OB/OD) Unit” shall mean the area adjacent to the Eagle River Flats wetlands and within the boundary of the Eagle River Flats impact area in the northwest sector of Joint Base Elmendorf-Richardson that was used for disposing of unexploded ordnance (UXO), unused propellants, rocket motors, small-arms ammunition, and other military munitions, by open burning/open detonation of the aforementioned hazardous waste.

“Permit” shall mean this Permit issued by the EPA, Region 10 pursuant to RCRA and the regulations promulgated under RCRA.

“Permittee” shall mean the Joint Base Elmendorf-Richardson.

“Range” shall mean the Eagle River Flats Firing Range.

"Release" shall mean any spilling, leaking, pouring, emitting, emptying, discharging, injecting, pumping, escaping, leaching, dumping, or disposing of hazardous waste and/or constituents into the environment (including the abandonment or discarding of barrels, containers, and other closed receptacles containing hazardous waste and/or constituents).

"Solid waste management unit (SWMU)" shall mean any discernible unit at which solid wastes have been placed at any time, irrespective of whether the unit was intended for the management of solid or hazardous waste. Such units include any area at the Facility at which hazardous waste and/or constituents have been routinely and systematically released.

"Work" shall mean any activity the Permittee is required to perform under the Permit.

PART I - STANDARD CONDITIONS

I.A. Effect of Permit

- I.A.1. The Permittee is required to close the OB/OD unit and to conduct corrective action for the Facility in accordance with the conditions of this Permit. Any treatment, storage, or disposal of hazardous waste subject to regulation under 40 CFR Part 264 or 265 not authorized in this Permit is prohibited. Compliance with this Permit during its effective term constitutes compliance, for purposes of enforcement, with 40 CFR Parts 264 through 270 for the hazardous waste activities identified and included in this Permit, except for any self-implementing provisions and related regulations promulgated pursuant to HSWA. All other requirements of RCRA, including the generator requirements of 40 CFR Parts 262 and 268, remain applicable to this Facility and are not replaced or affected by this Permit.
- I.A.2. Compliance with the terms of this Permit does not constitute a defense to any action brought under § 3007, 3008, 3013, or 7003 of RCRA (42 USC § 6927, 6928, 6934, or 6973); CERCLA; or any other federal or state law governing protection of public health or the environment. [40 CFR § 270.4]

I.B. Permit Actions and Modifications

- I.B.1. This Permit may be modified, revoked and reissued, or terminated for cause, as specified in 40 CFR §§ 270.41, 270.42, and 270.43.
- I.B.2. Filing a request for a permit modification, revocation and reissuance, or termination, or filing a notification of planned changes or anticipated noncompliance on the part of the Permittee, does not stay the applicability or enforceability of any permit condition.
- I.B.3. Except as provided by specific language in this Permit, any modification or change in a hazardous waste management practice covered by this Permit must be accomplished in accordance with 40 CFR § 270.41 or 270.42.
- I.B.3.a. A written request must be submitted at least sixty (60) calendar days prior to any proposed change in Facility design or operation, or not later than sixty (60) calendar days after an unexpected event has occurred which has affected the Permit. The Administrator will approve, disapprove, or modify this request in accordance with the procedures in 40 CFR Parts 124 and 270.
- I.B.3.b. If the Permittee determines that the corrective action and/or groundwater

monitoring programs required by this Permit no longer satisfy the requirements of the regulations, the Permittee must, within ninety (90) days of such determination, submit a written request for a permit modification to make those changes deemed necessary to satisfy the regulations.

I.C. Severability

I.C.1. The provisions of this Permit are severable. If any provision of this Permit, or the application of any provision of this Permit to any circumstance, is held invalid, the application of such provision to other circumstances and the remainder of this Permit shall not be affected thereby. Invalidation of any statutory or regulatory provision which forms the basis for any condition of this Permit does not affect the validity of any other statutory or regulatory basis for said condition. [40 CFR § 124.16(a)(2)]

I.C.2. In the event that a condition(s) of this Permit is stayed for any reason, the Permittee shall continue to comply with the conditions of the Permit that are not stayed and to comply with conditions of the previous permit which correspond to the stayed condition(s) until final resolution of the stayed condition(s) unless the Administrator determines that compliance with the previous permit's conditions would be technologically incompatible with compliance with other conditions of this Permit which have not been stayed.

I.D. Personal and Property Rights

I.D.1. The Permittee shall hold harmless and indemnify the EPA and its officers, employees, and agents from any claim, suit, or action arising from the activities of the Permittee or its contractors, agents, or employees under this Permit.

I.D.2. Issuance of this Permit does not convey any property rights or any exclusive privilege, nor does issuance of the Permit authorize any injury to persons or property, any invasion of other private rights, or any infringement of federal, state, or local laws or regulations. [40 CFR § 270.30(g)]

I.E. Duty to Comply

I.E.1. The Permittee shall comply with all conditions of this Permit, except to the extent and for the duration such noncompliance is authorized by an emergency permit issued in accordance with 40 CFR § 270.61. Any permit noncompliance, other than noncompliance authorized by an emergency permit, constitutes a violation of RCRA and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; and/or for denial of a permit renewal application.

[40 CFR § 270.30(a)]

I.E.2. Compliance with the terms of this Permit does not constitute a defense to any action brought under Sections 3007, 3008, 3013, and 7003 of RCRA (42 U.S.C. §§ 6927, 6928, 6934, and 6973); CERCLA (42 U.S.C. § 9601 et. seq.); or any other federal or state law governing protection of public health or the environment.

I.F. Duty to Reapply

I.F.1. If the Permittee wishes to continue an activity allowed by this Permit after the expiration date of this Permit, or if the Permittee is required to conduct post-closure care, or if the Permittee is required to continue corrective action obligations, the Permittee must reapply for and obtain a new permit, in accordance with 40 CFR § 270.10(h) and 270.30(b).

I.F.2. The corrective action obligations contained in this Permit will continue regardless of whether the Facility continues to operate or ceases operation and closes. The Permittee is obligated to complete facility-wide corrective action regardless of the operational status of the Facility.

I.G. Continuation of Expiring Permit

I.G.1. This Permit and all conditions herein will remain in effect beyond the Permit's expiration date if the Permittee has submitted a timely, complete application (pursuant to 40 CFR §§ 270.10 and 270.13 through 270.29) and, through no fault of the Permittee, the Administrator has not issued or denied the new permit, as set forth in 40 CFR § 270.51. This Permit may be modified or revoked and reissued as necessary in accordance with 40 CFR § 270.41 and/or 40 CFR § 270.42.

I.G.2. If the Permittee fails to submit a timely, complete application, as required herein, then these Permit terms and conditions will remain in effect beyond the Permit's expiration date until the EPA terminates the terms and/or conditions or the EPA takes other action to terminate the Permittee's obligation to submit an application or to otherwise comply with the terms and/or conditions.

I.H. Need to Halt or Reduce Activity Not a Defense

It shall not be a defense for the Permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity to maintain compliance with the conditions of this Permit. [40 CFR § 270.30(c)]

I.I. Duty to Mitigate

In the event of noncompliance with this Permit, the Permittee shall take all reasonable steps to minimize releases to the environment and shall carry out such measures as are reasonable to prevent significant adverse impacts to human health or the environment. Such mitigation shall not be a defense to an enforcement action. [40 CFR § 270.30(d)]

I.J. Proper Operation and Maintenance

The Permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the Permittee to achieve compliance with the conditions of this Permit. Proper operation and maintenance includes effective performance, adequate funding, adequate operator staffing and training, and adequate laboratory and process controls, including appropriate quality assurance/quality control procedures.

This provision requires the operation of back-up or auxiliary facilities or similar systems to maintain compliance with the conditions of this Permit. No provision of this Permit shall be interpreted to require the Permittee to obligate funds in violation of the Anti-Deficiency Act, 31 U.S.C. Section 1341. [40 CFR § 270.30(e)]

I.K. Duty to Provide Information

The Permittee shall furnish to the Administrator, within a reasonable time, any relevant information which the Administrator may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this Permit, or to determine compliance with this Permit. The Permittee shall also furnish to the Administrator, upon request, copies of records required to be kept by this Permit. [40 CFR §§ 264.74(a), and 270.30(h)]

I.L. Inspection and Entry

Pursuant to 40 CFR § 270.30(i), the Permittee shall allow the Administrator, or authorized representatives, upon the presentation of credentials and other documents as may be required by law to:

- I.L.1. Enter at reasonable times upon the Permittee's premises where a regulated facility or hazardous waste management activity or corrective action activity is or may be

located or conducted, or where records must be kept under the conditions of this Permit;

- I.L.2. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this Permit;
- I.L.3. Inspect the Facility at reasonable times, including, but not limited to, any facilities, units, equipment (including monitoring and control equipment), practices, or operations regulated or required under this Permit; and
- I.L.4. Sample or monitor, at reasonable times, for the purposes of assuring Permit compliance, or as otherwise authorized by RCRA, at any location.

I.M. Monitoring and Records

- I.M.1. Samples and measurements taken by the Permittee for the purpose of monitoring shall be representative of the monitored activity.

The method used to obtain a representative sample of the waste to be analyzed must be the most recent appropriate method from Appendix I of 40 CFR Part 261.

The Permittee shall use techniques and procedures consistent with the most recent EPA's guidance when collecting, preserving, shipping, analyzing, tracking, and controlling samples. [40 CFR § 270.30(j)(1)]

- I.M.2. Except as specifically required elsewhere (i.e. Permit Condition I.Y), the Permittee shall retain at the facility, records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports and records required by this Permit, certification required by 40 CFR § 264.73(b)(9), and records of all data used to complete the application for this Permit for a period of at least thirty-six (36) months from the date of the sample, measurement, report, record, certification, or application.

This period may be extended by the Administrator at any time by notification, in writing, to the Permittee and is automatically extended during the course of any unresolved enforcement action regarding the Permit until the successful conclusion of any enforcement action. [40 CFR § 270.30(j)(2)].

- I.M.3. Pursuant to 40 CFR § 270.30(j)(3), records of groundwater and air monitoring information, specific to post-closure and corrective action, shall specify:

- I.M.3.a. The dates, exact places identified by GPS coordinates, and times of sampling or measurements;
- I.M.3.b. The name, title, and affiliation of the individual(s) who performed the sampling or measurements;
- I.M.3.c. The dates the analyses were performed;
- I.M.3.d. The name, title, and affiliation of the individual(s) who performed the analyses;
- I.M.3.e. The analytical techniques or methods used; and
- I.M.3.f. The results of such analyses, including the Quality Assurance/Quality Control (QA/QC) summary.
- I.M.4. The Permittee may substitute analytical methods which are equivalent to those specifically approved for use in this Permit if:
 - I.M.4.a. The Permittee submits to the Administrator a request for substitution of an analytical method(s) which is equivalent to the method(s) specifically approved for use in this Permit, including information demonstrating that the proposed method(s) is equal or superior to the approved analytical method(s) in terms of sensitivity, accuracy, and precision (i.e., reproducibility); and,
 - I.M.4.b. The Administrator notifies the Permittee, in writing, that the substitution of the analytical method(s) is approved. Such approval shall not require a permit modification.

I.N. Reporting Planned Changes

The Permittee shall give notice to the Administrator as soon as possible of any planned physical alterations or additions to the OB/OD unit at the Facility, or of any activity that will physically alter or add to the OB/OD unit or result in noncompliance with permit requirements. [40 CFR § 270.30(l)(1)]

I.O. Reporting Anticipated Noncompliance

The Permittee shall give advance notice, in writing, to the Administrator of any planned change(s) in the permitted Facility or any activity which may result in noncompliance with permit requirements. If advance notice is not possible, then the Permittee shall give notice within twenty-four (24) hours of the time the Permittee becomes aware of the anticipated noncompliance. Such notice does not

authorize any noncompliance with this Permit or modification of this Permit.
[40 CFR § 270.30(1)(2)]

I.P. Transfer of Permit

This Permit may be transferred to a new owner or operator only if it is modified or revoked and reissued pursuant to 40 CFR §§ 270.40(b), 270.41(b)(2), and 270.42.

Before transferring ownership or operation of the facility during its operating life, the Permittee shall notify the new owner or operator in writing of the requirements of 40 CFR Parts 264 and 270 and this Permit. [40 CFR §§ 264.12 and 270.30(1)(3)]

I.Q. Twenty-four Hour Reporting

I.Q.1. The Permittee shall report to the Administrator any noncompliance with the Permit which may endanger human health or the environment. Any such information shall be reported orally within twenty-four (24) hours from the time the Permittee becomes aware of the noncompliance. The report shall include the following:

I.Q.1.a. Information concerning the release of any hazardous waste and/or constituents that may cause an endangerment to public drinking water supplies; and

I.Q.1.b. Any information of a release or discharge of hazardous waste and/or constituents or a fire or explosion relating to hazardous waste management at the Facility which could threaten the environment or human health.

I.Q.2. The description in the oral report of the occurrence and its cause shall include:

I.Q.2.a. Name, address, and telephone number of the owner or operator;

I.Q.2.b. Name, address, and telephone number of the Facility;

I.Q.2.c. Date, time, and type of incident;

I.Q.2.d. Name and quantity of material(s) involved;

I.Q.2.e. The extent of injuries, if any;

I.Q.2.f. An assessment of actual or potential hazards to the environment and human health

outside the facility, where this is applicable;

- I.Q.2.g. The estimated quantity and disposition of recovered material that resulted from the incident; and
- I.Q.2.h. A qualitative review of actions taken, intended responses, and remedial actions.
- I.Q.3. A written submission shall also be provided within five (5) calendar days of the time the Permittee becomes aware of the noncompliance. The written submission shall contain a description of the noncompliance, its extent, and its cause; the period(s) of noncompliance, including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance. The Administrator may waive the five (5) day written notice requirement in favor of a written report within fifteen (15) days.

I.R. Other Noncompliance

The Permittee shall report to the Administrator all other instances of noncompliance not otherwise required to be reported in the monitoring reports, compliance schedules, and twenty-four (24) hour reports above, at the time monitoring reports are submitted. The reports shall contain the information listed in Permit Condition I.Q. [40 CFR § 270.30(l)(10)]

I.S. Other Information

Whenever the Permittee becomes aware that it failed to submit any relevant facts in the permit application or submitted incorrect information in a permit application or in any report to the Administrator, the Permittee shall promptly submit such facts or information to the Administrator. [40 CFR § 270.30(l)(11)].

I.T. Signature and Certification

Failure to submit the information required in this Permit, or falsification of any submitted information, is grounds for enforcement, in accordance with 40 CFR § 270.43.

The Permittee shall ensure that all plans, reports, notifications, and other submissions to the Administrator required in this Permit are signed and certified, in accordance with 40 CFR § 270.11.

I.U. Reports, Notification and Submissions

All reports, notifications, or other submissions which are required by this Permit to be sent or given to the Administrator must be sent by email, electronic file transfer, certified mail, or given directly to:

Brett Feldhahn, RCRA Project Manager
Land, Chemicals and Redevelopment Division
U.S. Environmental Protection Agency, Region 10
1200 Sixth Avenue, Suite 155, MS 15-H04
Seattle, Washington 98101
Telephone number: (206) 553-2899

Note: This is the current address and phone number and may change without modification of the Permit.

I.V. Confidential Information

The Permittee may claim confidential any information required to be submitted by this Permit to the extent allowed by and in accordance with 40 CFR §§ 260.2 and 270.12.

I.W. Documents to be Maintained at the Facility

The Permittee shall maintain at the Facility until closure and corrective action are completed and certified by an independent registered professional engineer, whichever comes later, and have readily available for inspection the following documents, and amendments, revisions, and modifications to these documents:

- I.W.1. Contingency Plan (Attachment 3 to this Permit) as required by 40 CFR § 264.53(a) and this Permit;
- I.W.2. Closure Plan (Attachment 7 to this Permit), as required by 40 CFR § 264.112(a) and this Permit;
- I.W.3. Inspection schedule(s), as required by 40 CFR § 264.15(b) (2);
- I.W.4. This Hazardous Waste Management Facility Permit, including all attachments;
- I.W.5. RCRA Part B Permit Application, dated December 2021, including all attachments;

- I.W.6. Assessment reports for all incidents that require implementation of the Contingency Plan;
- I.W.7. Record of all spills and releases at and/or from the Facility;
- I.W.8. Copies of all other environmental permits associated with the Facility;
- I.W.9. Well construction, maintenance, and replacement records; and
- I.W.10. All sampling records and data analysis, including raw data.

PART II. CLOSURE OF THE OB/OD UNIT

II.A. Prohibition of Use of OB/OD Unit

Open burning, open detonation, and other hazardous waste treatment is prohibited at the OB/OD unit.

II.B. Environmental Performance Standards for OB/OD Unit, 40 CFR Part 264 Subpart X

Reserved.

II.C. Amendment of Closure Plan

At least ninety (90) days prior to the date when the use of the Range will cease, or within ninety (90) days after a request from the Administrator, the Permittee shall submit to the EPA for review and approval a revised closure plan, including a schedule, for closure of the OB/OD unit, in accordance with 40 CFR § 264.112. The revised closure plan must meet the requirements of 40 CFR §§ 264.111 through 116. The EPA will modify the Permit to incorporate the revised closure plan in accordance with the applicable procedures in 40 CFR Parts 124 and 270.

II.D. Notification of Closure

II.D.1. The Permittee shall notify the Administrator in writing at least forty-five (45) days prior to the date on which the Permittee expects to begin closure of the OB/OD unit, in accordance with 40 CFR § 264.112(d).

II.D.2. Removal of waste or decontamination or dismantling of equipment at the OB/OD unit is prohibited until the Permit has been modified to include the revised and approved closure plan as specified in permit condition II.C and notification provided to the Administrator in accordance with Permit Condition II.D.1.

II.D.3. Once the Permit has been modified to include the revised closure plan as specified in Permit Condition II.B, and notification provided as specified in II.D.1, the Permittee shall implement closure of the OB/OD unit in accordance with the requirements of 40 CFR §§ 264.111 through 116 and the approved revised closure plan.

II.E. Disposal or Decontamination of Equipment, Structures, and Soils

The Permittee shall decontaminate and/or remove and dispose of all contaminated equipment, structures, and/or soils, as required by 40 CFR § 264.114 and the approved revised closure plan.

II.F. Certification of Closure

The Permittee shall certify that the hazardous waste OB/OD unit has been closed, in accordance with the specifications for closure in the approved revised closure plan, as required by 40 CFR § 264.115.

PART III. CORRECTIVE ACTION FOR SOLID WASTE MANAGEMENT UNITS

Section 3004(u) of RCRA, 42 U.S.C. § 6924, and 40 CFR § 264.101, require that all Permits issued after November 8, 1984, address corrective action for all releases of hazardous waste or hazardous constituents from any SWMU at a treatment, storage, or disposal Facility seeking the Permit, regardless of when the waste was placed in the unit or whether the unit is closed. Those sections further require that Permits issued under Section 3005 of RCRA, 42 U.S.C. § 6925, contain schedules of compliance for corrective action (where corrective action cannot be completed prior to Permit issuance). Section 3004(v) of RCRA, 42 U.S.C. § 6924(v), authorizes the Administrator to require that corrective action be taken by the Facility Owner or Operator beyond the Facility boundary when necessary to protect human health and the environment, unless the Owner or Operator demonstrates to the Administrator's satisfaction that permission to undertake such action, despite the owner/operator's best efforts, was denied. Section 3005(c)(3) of RCRA, 42 U.S.C. § 6925(c)(3), requires that each Permit issued under that section shall contain terms and conditions as the Administrator determines necessary to protect human health and the environment. The Administrator has delegated authority to perform all actions necessary to enforce this Permit to the Director of the Land, Chemicals and Redevelopment Division, the EPA, Region 10 (hereafter referred to as "Director") or the Director's designated representative.

On March 13, 1989 (54 FR 10520), the EPA adopted a policy for listing Federal Facility sites that are eligible for the National Priorities List (NPL), even if they are also subject to the corrective action authorities of Subtitle C of RCRA. The NPL is the EPA's list of CERCLA (more commonly known as *Superfund*) sites that pose the greatest threat to human health and the environment, based on a site assessment process. The EPA added Elmendorf Air Force Base and Fort Richardson to the NPL in 1990 and 1994, respectively. The facilities were merged in 2010, thereby becoming Joint Base Elmendorf-Richardson. The Department of Defense (DOD) established the Defense Environmental Restoration Program to address sites that are within the responsibility of the DOD under CERCLA, as amended by the Superfund Amendments and Reauthorization Act (SARA). The Air Force, the EPA, and the Alaska Department of Environmental Conservation (ADEC) signed a CERCLA Federal Facilities Agreement (FFA) for Elmendorf AFB in November 1991. The Army, the EPA, and ADEC signed a CERCLA FFA for Fort Richardson in December 1994. The FFAs provide a framework for CERCLA response actions to be performed at JBER, including the investigation and cleanup of contamination. Though the facilities have been merged, the FFAs currently remain separate, and the sites will continue to be managed under the terms of the original FFAs. If the original FFAs are amended, then this Permit will be modified to incorporate the amended FFAs.

Consequently, the Facility is subject to RCRA, CERCLA and ADEC's applicable cleanup authorities. The EPA will coordinate actions under RCRA and CERCLA to address overlapping cleanup requirements.

The Permittee shall, pursuant to § 3004(u) of RCRA and regulations codified at 40 CFR § 264.101, institute corrective action as necessary to protect human health and the environment for all releases of hazardous waste and/or constituents from any SWMU at the Facility regardless of the time at which waste was placed in such unit. The Fort Richardson Federal Facility Agreement and the Elmendorf Air Force Base Federal Facility Agreement, entered into by the Permittee and the Administrator pursuant to § 120(e)(2) of CERCLA, are existing mechanisms currently being used to investigate and clean up releases of hazardous waste and/or constituents as necessary to protect human health and the environment at the Facility. Investigations and cleanups conducted under the FFAs are expected to meet or exceed all applicable or relevant and appropriate state and federal requirements, including RCRA. The FFAs are incorporated by reference into this Permit and included as Attachments 6 and 7.

The corrective action for the Facility will be satisfied by performance of actions pursuant to the FFAs, except for those SWMUs not covered by the FFAs as specified in paragraphs 1 and 2 below:

1. The Corrective Action permit conditions (Permit Conditions III.A through III.K, below), apply to: those SWMUs that the Parties to the FFAs transfer to this RCRA Permit; newly discovered SWMUs formally identified as outside the scope of the FFAs; and newly discovered SWMUs that are not expressly included in writing as within the scope of the FFAs.
2. The Corrective Action permit conditions (Permit Conditions III.A through III.K, below) also apply to those SWMUs that are discovered or have not completed corrective action after termination of the FFAs.

III.A. Standard Conditions

- III.A.1. The Permittee must take corrective action as necessary to protect human health and the environment from all releases of hazardous waste and/or constituents from any SWMU at the Facility, regardless of the time at which waste was placed in such unit, in accordance with § 3004(u) of RCRA, 42 USC § 6924(u), 40 CFR §§ 264.90(a) and 264.101.
- III.A.2. The Permittee must take corrective action beyond the facility property boundary where necessary to protect human health and the environment, in accordance with § 3004(v) of RCRA, 42 USC § 6924(v), and 40 CFR § 264.101. The Permittee must exhaust all options to implement corrective action beyond the facility property boundary, including but not limited to purchasing affected property by eminent domain, relocating affected populations to new housing, and offering to finance and construct satisfactory water supply utilities to affected properties before making a demonstration, in accordance with 40 CFR § 264.101.

- III.A.3. All plans and schedules for corrective action required by the conditions of this Permit are, upon approval of the Administrator, incorporated into this Permit by reference and become an enforceable part of this Permit. Any noncompliance with such approved plans and schedules shall be deemed noncompliance with this Permit.
- III.A.4. If the Administrator determines that further corrective action beyond the requirements of this Permit is warranted, then the Administrator shall modify this Permit according to the permit modification processes under 40 CFR § 270.41.
- III.A.5. All raw data, such as laboratory reports, geological and hydrogeological investigations, bench-scale or pilot-scale data, and other supporting information gathered or generated during activities undertaken pursuant to this Permit, including any reissued permits, shall be provided at the request of the Administrator.

III.B. Reporting Requirements

- III.B.1 The Permittee shall submit to the Administrator a signed and certified annual corrective action progress report each December which shall contain:
- III.B.1.a. A discussion and summary of all corrective action-related activities undertaken during the time period, including remediation activities conducted under the FFAs;
- III.B.1.b. Summaries of all problems or potential problems encountered during the reporting period and the actions taken to rectify these problems;
- III.B.1.c. A list of construction projects that generated regulated hazardous waste and their locations; and
- III.B.1.d. Projected work for the next reporting period.
- III.B.2. The Permittee shall maintain copies of other corrective action reports (e.g., inspection reports); geological and hydrogeological investigations; records of groundwater monitoring wells, including boring logs, and associated groundwater surface elevations; and all laboratory data, including raw data, for the active life of the Facility, and shall make them available to the Administrator upon request.

III.B.3. The Administrator may require the Permittee to conduct new or more extensive assessments, investigations, or studies, as needed, based on information provided in these progress reports or other supporting information.

III.C. Newly-Identified, Newly-Discovered, or Newly-Created Solid Waste Management Units

III.C.1. The Permittee shall notify the Administrator in writing of any newly-identified, newly-discovered, or newly created SWMU(s). This notice shall be provided no later than fifteen (15) calendar days after discovery of the newly-identified, newly-discovered, or newly-created SWMU(s).

III.C.2. Within ninety (90) calendar days after the notification provided in accordance with Permit Condition III.C.1., the Permittee shall prepare a SWMU Assessment Report for the SWMU. At a minimum, the Report shall provide the following information for each newly-identified, newly-discovered, or newly-created SWMU:

III.C.2.a. The location of each such SWMU in relation to other SWMUs, building numbers, or other descriptive landmarks;

III.C.2.b. The type and function of the SWMU;

III.C.2.c. The general dimensions, capacities, and structural description of the SWMU (supply all available drawings);

III.C.2.d. The period during which the SWMU was operated;

III.C.2.e. Waste characterization information for all wastes that have been or are being managed at the SWMU; and

III.C.2.f. A description of any release (or suspected release) of hazardous waste and/or constituents originating from the SWMU, including planned or unplanned releases to the air and any other media. Include information on the date of release, type of hazardous waste and/or constituents, quantity released, nature of the release, extent of release migration, and cause of release (e.g., overflow, broken pipe, tank leak). Also provide any available data which characterizes the nature and extent of environmental contamination, including the results of air, soil and/or groundwater sampling and analysis efforts. Also submit any existing monitoring information that shows that a release of hazardous waste and/or constituents has not occurred or is not occurring.

III.C.3. Based on the results of this Report, the Administrator shall determine the need for further investigations at specific unit(s) covered in the SWMU Assessment Report. If the Administrator determines that such investigations are needed, the Administrator will require the Permittee to prepare a RCRA Facility Investigation (RFI) workplan and/or RFI report, within a specified time and consistent with the EPA's guidance, subject to the Administrator's approval. The RFI Workplan and/or Report are subject to the dispute resolution procedures of Permit Condition III.K. If the Administrator determines that corrective measures are required, the Permittee shall submit a request for a permit modification to implement corrective measures.

III.D. Newly-Discovered Releases at Solid Waste Management Units

III.D.1. The Permittee shall notify the Administrator, in writing, of any newly-discovered release(s) of hazardous waste and/or constituents from any SWMU. The Permittee shall investigate and, if necessary, remediate the discovered release(s). Such releases may be from newly-identified or newly-created SWMUs, from SWMUs at which the Administrator had previously determined that no further investigation was necessary, or from SWMUs investigated as part of this Permit. This notification shall be submitted in two parts:

III.D.1.a. First, within fifteen (15) calendar days of discovery of the release, the Permittee shall submit in writing an initial notification of the discovery. This notification shall alert the Administrator to the immediacy and extent of the threat to human health and/or the environment.

III.D.1.b. Second, within sixty (60) days of discovery of the release, the Permittee must submit a written report. The report shall discuss the Permittee's efforts to investigate and/or remediate the discovered release and shall specifically include:

- i. the concentrations and estimated quantities of any hazardous waste and/or constituents released;
- ii. the known, or expected, pathway(s) through which the contamination is migrating (or may migrate), and the extent, rate, and direction of that migration;
- iii. the projected fate and transport of the release;
- iv. the likely exposure pathway(s) for potential receptors, and the consequences of exposure to these receptors; and

- v. an outline of proposed Interim Corrective Measures to control the release, as well as a schedule for implementing the Interim Corrective Measures. The schedule must be justified by a discussion of possible consequences arising from any delay in implementing Interim Corrective Measures.

III.D.2. Within ninety (90) days of discovery of a release, the Permittee shall submit a Report describing the Interim Corrective Measures activities taken to date. This Report shall include the reporting requirements specified in Permit Condition III.B. If the Administrator determines that additional investigation or corrective measures are required, the Permittee shall submit a request for a permit modification to investigate and perform additional Interim Corrective Measures, or the Administrator may initiate a permit modification.

III.E. RCRA Facility Investigation (RFI) Workplan

III.E.1. If the Administrator determines that an RFI is necessary for any newly-discovered or newly-created SWMU or for a newly discovered release under Permit Condition III.C. or III.D., or needed to further investigate an existing SWMU, the Permittee shall submit an RFI Workplan to the Administrator. The RFI Workplan must identify the SWMUs, releases of hazardous waste and/or constituents, and media of concern which require corrective action. The RFI Workplan, which must be approved by the Administrator, should be consistent with the EPA's current corrective action guidance, including RCRA Facility Investigation (RFI) Guidance, OSWER Directive 9502.00-6C, dated May 1989.

III.E.1.a. The RFI Workplan shall describe the objectives of the investigation and the overall technical and analytical approach to completing all actions necessary to characterize the nature, direction, rate, movement, and concentration of releases of hazardous waste and/or constituents from specific SWMUs or groups of SWMUs, and their actual or potential receptors. The RFI Workplan shall detail all proposed activities and procedures to be conducted at the unit, the schedule for implementing and completing such investigations, an outline of the RFI Report required in Permit Condition III.F.1, and the overall management of the RFI. The RFI Workplan shall include screening levels consistent with the EPA's health and ecological based guidance effective at the time of implementation.

III.E.1.b. In addition, the RFI Workplan shall discuss sampling and data collection quality assurance and data management procedures, including formats for documenting and tracking data and other results of investigations, and health and safety procedures for conducting the field work.

III.E.2. After the Permittee submits the RFI Workplan, the Administrator may either approve or disapprove the RFI Workplan in writing. If the Administrator disapproves the RFI Workplan, the Administrator shall either: (1) notify the Permittee in writing of the deficiencies in the RFI Workplan and specify a due date for submittal of a revised RFI Workplan; or (2) revise and approve with modification the RFI Workplan and notify the Permittee of the revisions. Submittals required by this permit condition do not require a permit modification, and are subject to the dispute resolution procedures in Permit Condition III.K.

III.E.3. The Administrator may review for approval as part of the RFI Workplan any plans developed pursuant to Permit Condition III.C.3., addressing further investigations of newly-identified SWMUs, or Permit Condition III.D., addressing new releases from previously-identified SWMUs. The Administrator may modify this Permit according to the permit modification procedures in 40 CFR § 270.41 to incorporate these SWMUs and releases into the RFI Workplan.

III.E.4. After the Permittee has received written approval from the Administrator for the RFI Workplan, the Permittee shall begin implementation of the RFI according to the schedules specified in the approved RFI Workplan. The RFI shall be conducted in accordance with the approved RFI Workplan.

III.F. RCRA Facility Investigation Final Report

III.F.1. The Permittee shall develop and submit a RFI Final Report. The Report should be consistent with the EPA's current corrective action guidance, including RCRA Facility Investigation Guidance, OSWER Directive 9502.00-6C, dated May 1989.

III.F.2. Within ninety (90) calendar days after the completion of the RFI and/or receipt of validated data, the Permittee shall submit an RFI Final Report to the Administrator. The RFI Final Report shall describe the procedures, methods, and results of all facility investigations of SWMUs and their releases, including information on the type and extent of contamination at the Facility, sources and migration pathways, and actual or potential receptors. The RFI Final Report shall present all information necessary to support further corrective action decisions at the unit.

III.G. Additional Interim Corrective Measures

III.G.1. If at any time the Administrator determines that a release or potential release of hazardous waste and/or constituents at the Facility poses a threat to human health or the environment, the Administrator will notify the Permittee that it must submit a Workplan, including a schedule, for conducting Interim Corrective Measures

designed to minimize the threat to human health and the environment. Upon the Administrator's approval of the Workplan, the Permittee shall implement the approved Interim Corrective Measures according to the approved schedule. Interim Corrective Measures are subject to the dispute resolution procedures in Permit Condition III.K. Implementation by the Permittee of treatment or containment activities during "immediate response," as defined in 40 CFR § 264.1(g) (2), to a discharge of hazardous waste and/or constituents, or an imminent and substantial threat of a discharge of hazardous waste and/or constituents, or a discharge of material which, when discharged, becomes a hazardous waste, is not subject to this Permit. Actions taken to address the discharge after the immediate response is completed are subject to this Permit.

III.G.2. The following factors may be considered by the Administrator in determining the need for additional Interim Corrective Measures:

III.G.2.a. Time required to develop and implement a final remedy;

III.G.2.b. Actual and potential exposure of human and environmental receptors;

III.G.2.c. Actual and potential contamination of drinking water supplies and sensitive ecosystems;

III.G.2.d. Potential for further degradation of the medium absent the additional Interim Corrective Measures;

III.G.2.e. Presence of hazardous waste in containers or tanks that may pose a threat of release;

III.G.2.f. Presence and concentration of hazardous waste and/or constituents in soils, ground water, surface water, or air;

III.G.2.g. Weather conditions that may affect the current levels of contamination or potential for exposure;

III.G.2.h. Risks of fire, explosion, or accident; and

III.G.2.i. Other situations that may pose a threat to human health and the environment.

III.H. Corrective Measures Study

III.H.1. If the Administrator has reason to believe that a SWMU has released concentrations of hazardous constituents in excess of the EPA's current health-

and ecological-based levels, or if the Administrator determines that contaminants present at levels below the EPA's current health-based levels pose a threat to human health and the environment given site-specific exposure conditions, the Administrator may require a Corrective Measures Study (CMS) and, if so, shall notify the Permittee in writing. This notice shall identify the hazardous constituents(s) which have exceeded action levels as well as those which have been determined to present a potential threat to human health and the environment given site-specific exposure conditions.

III.H.2. No later than sixty (60) calendar days after the Permittee has received notification from the Administrator, under Permit Condition III.H.1., of the need for a CMS, the Permittee shall submit to the Administrator a schedule for conducting a CMS. Upon the Administrator's approval of the schedule, the Permittee shall implement the CMS according to the approved schedule. The CMS should be consistent with the EPA's guidance.

III.H.3. The Permittee shall submit a CMS Final Report according to the schedule approved by the Administrator pursuant to Permit Condition III.H.2. The CMS Final Report shall summarize the results of the investigations for each remedy, and of any bench-scale or pilot tests conducted. The CMS Final Report must include an evaluation of each remedial alternative, and a proposal for corrective measures implementation. The CMS Final Report shall contain adequate information to support the Administrator in the remedy selection decision-making process, described in Permit Condition III.I.

III.H.4. Based on preliminary results and the CMS Final Report, the Administrator may require the Permittee to evaluate additional remedies or particular elements of one or more proposed remedies and modify the CMS Final Report accordingly, within a timeframe specified by the Administrator. Modifications to the CMS Final Report are subject to the dispute resolution procedures of Permit Condition III.K.

III.I. Remedy Selection

Based on the results contained in the RFI Final Report, CMS Final Report, or any further evaluations of additional remedies, the Administrator will propose to select a remedy that will: (1) be protective of human health and the environment; (2) meet the concentration levels of hazardous constituents in each medium that the remedy must achieve to be protective of human health and the environment; (3) control the source(s) of release(s) so as to reduce or eliminate, to the maximum extent practicable, further releases that might pose a threat or potential threat to human health and the environment; and (4) meet all applicable waste management requirements.

III.J. Permit Modification for Remedy

Based on information the Permittee submits in the RFI Final Report, the CMS Final Report, or other information, the Administrator will initiate a modification to this Permit for selection and implementation of the remedy, pursuant to 40 CFR § 270.41. The modification will include conditions that require submittal of corrective measures design, implementation, and monitoring plans. The Permittee shall implement the selected remedy after the modification is effective and the Administrator has approved the corrective measures design, implementation, and monitoring plans.

III.K. Dispute Resolution

III.K.1. If the Administrator rejects or modifies, in whole or in part, any submission required by this Permit where dispute resolution procedures are identified as applicable, the following procedures shall apply:

III.K1.a. The Administrator will use best efforts to notify the Permittee in writing of either a rejection with comments of a submission or modification of a submission (Notice) no later than sixty (60) days from the date the submission is received. To the extent appropriate, such Notice will:

- i. Identify problems with the submission and any modifications to be made;
- ii. Provide an explanation and documentation or data to support the complete or partial rejection of, and any modification to, the submission; and
- iii. Identify a date by which either objections to the Notice or a document revised in accordance with comments that includes any required modifications must be received from the Permittee. Such date shall not be less than thirty (30) calendar days from the date the Permittee receives the Notice under Permit Condition III.K.1.a.

III.K.1.b. If the Permittee submits objections to the Notice, the Permittee and the EPA staff person(s) responsible for reviewing the submission (the “permitting staff”) will attempt to resolve any disputes over the submission informally. If requested by the Permittee, a meeting will take place between the permitting staff and the Permittee to discuss the submission. Unless otherwise agreed to by the permitting staff in writing, the EPA will use best efforts to hold the meeting at the EPA, Region 10's office in Seattle, Washington, or by teleconference, no later than sixty (60) days from receipt of Permittee’s written request to discuss the submission.

III.K.1.c. If agreement is not reached between the permitting staff and the Permittee within fourteen (14) calendar days of the date the permitting staff receives the Permittee's objections to the Notice (the "informal dispute resolution period"), the Permittee must submit either written arguments and evidence to the EPA official authorized to make final permit decisions (the Decision Maker) or a document revised in accordance with comments that includes any required modifications. The written arguments and evidence or revised document shall be submitted to the Decision Maker within thirty (30) calendar days of the end of the informal dispute resolution period at the following address:

Director
Land, Chemicals and Redevelopment Division
U.S. Environmental Protection Agency, Region 10
1200 Sixth Avenue, Suite 900
Seattle, Washington 98101
Telephone number: (206) 553-1271

III.K.1.d. If written arguments and evidence are submitted by the Permittee to the Decision Maker, the Decision Maker will promptly resolve the dispute. The Decision Maker's resolution of the dispute will include a written response to the evidence and arguments submitted by the Permittee.

The Permittee shall comply with the Decision Maker's decision regardless of whether the Permittee agrees with the decision. The Decision Maker's resolution of the dispute is not subject to administrative or judicial appeal.

III.K.2. Unless otherwise agreed to by the Administrator, invocation of dispute resolution by the Permittee shall not extend, postpone, or affect in any way any obligation of the Permittee under this Permit not directly in dispute.

ATTACHMENT B

FACT SHEET

DRAFT HAZARDOUS WASTE MANAGEMENT FACILITY AND CORRECTIVE ACTION PERMIT

JOINT BASE ELMENDORF-RICHARDSON, ANCHORAGE, ALASKA

EPA NO. AK8 57002 8649

July 2023 draft

This fact sheet presents the principal facts pertaining to a Resource Conservation and Recovery Act (RCRA) Permit that the U.S. Environmental Protection Agency Region 10 (EPA) proposes to reissue to Joint Base Elmendorf-Richardson (JBER) in Anchorage, Alaska. The reissued Permit will update the hazardous waste facility permit and corrective action requirements at the Joint Base Elmendorf-Richardson facility. This fact sheet was prepared by EPA in accordance with the requirements of 40 C.F.R. § 124.8. The draft Permit is based on an administrative record which is available to the public for review.

A. PURPOSE OF THE PERMITTING PROCESS

The purpose of the permitting process is to design specific administrative and operational requirements under which the Permittee must operate to comply with the hazardous waste management requirements promulgated under RCRA, as amended by the Hazardous and Solid Waste Amendments of 1984 (HSWA), and regulations adopted thereunder by EPA in 40 C.F.R. Parts 124 and 260 to 270.

The EPA is required to prepare a draft Permit which sets forth in one concise document all the applicable requirements that the EPA intends to require the Permittee to comply with during the ten-year duration of the permit. The public is given forty-five (45) days to review and comment on the draft Permit conditions prior to the Agency taking any final action on the draft Permit.

B. PROCEDURES FOR REACHING A FINAL DECISION

Section 7004(b) of RCRA and 40 C.F.R. § 124.10 require that the public be given forty-five (45) days to comment on each draft RCRA Permit. The comment period will begin on July 24, 2023, and will end September 7, 2023. Any person interested in commenting on this draft Permit must do so within this forty-five (45) day comment period.

Comments on the draft Permit must be submitted in writing on or before September 7, 2023, to Brett Feldhahn at feldhahn.brett@epa.gov. Comments should include all reasonable available references, factual grounds and supporting material.

If there is significant interest in holding a public hearing and a request for a public hearing is received on or before August 23, 2023, then EPA may conduct a public hearing virtually or in person. If held, the hearing will take place on September 4, 2023, beginning at 7:00 p.m. Alaska Daylight Time.

There will not be a public hearing unless significant public interest in doing so is communicated to Brett Feldhahn by August 23, 2023. To find out if a hearing will be held, check the EPA Website at <https://www.epa.gov/publicnotices/proposed-hazardous-waste-permit-joint-base-elmendorf-richardson-alaska> after August 25, 2023.

When making a determination regarding the issuance of this Permit to the U.S. Army and Air Force, the EPA will consider all written comments received during the public comment period, comments received during the public hearing, the requirements of the hazardous waste regulations, and the Agency's permitting policies.

When EPA makes a final decision to either issue, deny, or modify the draft Permit, if there have been comments on the draft Permit, notice will be given to the applicant and each person who has submitted written comments or requested notice of the final decision. The final decision shall become effective no sooner than thirty (30) days after the notice unless a review is requested pursuant to 40 C.F.R. § 124.19.

C. FACILITY DESCRIPTION

Location

The JBER facility is located on 74,297 acres of land contiguous to the north side of the Municipality of Anchorage, Alaska, at 61 degrees, 14 minutes north latitude and 149 degrees, 48 minutes west longitude (Facility).

JBER is the largest Air Force installation in Alaska. Its mission is to provide support for the air defense and sovereignty of Alaska and North America. JBER is also the home to one U.S. Army (Army) Brigade and the point of mobilization for Army forces in Alaska for conducting contingency operations within the Pacific Theater and elsewhere as directed.

The current JBER population consists of approximately 13,000 active-duty military personnel and approximately 18,500 of their dependents, as well as nearly 3,070 federal civilian employees. About half of the active-duty personnel and their dependents live on the base.

Land use within a one-quarter-mile radius of JBER boundaries consists of the Knik Arm of the Cook Inlet to the west and north, the town of Eagle River to the east, and the Municipality of Anchorage to the south. The base is geographically bordered on the east by the Chugach Mountains.

The Knik Arm of the Cook Inlet provides natural access control to the west and north of the base. The State-owned Alaska Railroad enters the base in the northern section and exits to the south. Access to JBER is restricted through six gates located along various sections of the base.

Elevation at JBER ranges from 200 feet above mean sea level to 3,900 feet at Site Summit. The prevailing wind direction is west to north, averaging three to seven knots. Natural vegetation varies from shrubs and grasses to wetlands, coastal forests and alpine tundra with the expected transitional phases interspersed.

JBER lies in a transitional climatic zone between the maritime zone to the south and the interior/continental to the north. The base is protected, and the climate moderated, by mountains to the north and south both from lush, humid, warm climes in the summer and bitter dry cold in the winter. Cook Inlet also serves as a local influence on temperature and climate. The average summer high temperature at JBER is 65 degrees Fahrenheit (°F) and the average winter low temperature is 7°F. JBER receives approximately 15 inches of rainfall and 77 inches of snowfall annually (CSU 2004).

JBER encompasses portions of the upper drainage area of Ship Creek, the lower drainage areas of Ship Creek and Eagle River, the Chugach foothills and mountains, glacial moraine

plains, and estuaries. Peters Creek in the northern portion of JBER, and north Eagle River, drains a small portion of the base as do Chester Creek and Campbell Creek in the southern portions of the base. None of these lesser three streams receives storm water runoff from the urbanized main cantonment area of the base. Runoff to these three drainage systems is mainly from natural terrain that is infrequently used for military training exercise. Surface water runoff from the main industrialized areas is limited almost entirely to Ship Creek by way of four state-permitted outfall points. Additionally, one outfall point exists at Cherry Hill and one at Six Mile Lake. Some incidental surface water sheet flow may enter Ship Creek outside of the urbanized cantonment area, but its contribution is small and is generally from un-urbanized natural terrain.

Groundwater at JBER exists as a deep confined aquifer, a shallow unconfined aquifer, and discontinuous zones of perched groundwater. The Bootlegger Cove formation constitutes much of the confining layer that separates the confined and unconfined aquifer. Depth to groundwater Att. 1-6 ranges from near surface along Ship Creek to greater than 250 feet below ground surface (bgs) among the thicker glacial deposits found in the northern section of JBER. Lenses of silt found 20 to 40 feet bgs often become unproductive or poorly productive after development. Water is known to recharge the groundwater system of JBER in several ways: groundwater seeps from bedrock fractures into the sediments along the Chugach Mountains to the east; snowmelt and rainfall infiltrate to the groundwater; and streams feed groundwater in areas where the elevation of the stream is above the water table. Discharge of the aquifer is either by groundwater flow to Knik Arm or into streams (e.g., Ship Creek, Eagle River) that ultimately discharge into Knik Arm. The overall trend in flow direction in the confined aquifer is to the northwest. However, data suggest that flow within the confined aquifer is also influenced by discontinuous fine-grained units that result in local groundwater flow directions that diverge from regional patterns.

The cantonment areas of JBER are situated on a flat outwash plain between the Chugach Mountains and the Knik Arm of the Cook Inlet. Training areas extend from the Eagle River Flats (ERF) to the hills of the Elmendorf moraine and the foothills of the Chugach Mountains. The surficial geology and glacial stratigraphy of JBER are extremely complex. The area is covered by glacial, glacial-marine, and glaciofluvial deposits of Quaternary Age. The JBER vicinity has three general geologic terrains: glacial deposits, alluvial deposits, and metamorphic rock. Glacial sediments deposited in the Cook Inlet basin during a series of five glacial periods in recent geologic history constitute the north and central portions of JBER. Terminal moraine deposits (the Elmendorf moraine) are present directly northwest of the main cantonment area. The soils of the Elmendorf moraine are composed of fine-grained, poorly sorted glacial materials (clays, silts, very fine sands), with interbedded heterogeneous layers of boulders, cobbles, gravel, sand, silt, and clays.

A large alluvial fan (Mountain View fan) emanating from the Eagle River Valley extends under the JBER cantonment area. The fan is bordered on the north by the Elmendorf Moraine and on the south by several low hills that protrude through younger glacial sediments. The hills are composed of ground moraine (glacial diamicton) that extends underneath the alluvial fan and probably below the Bootlegger Cove Formation. The fan slopes to the west-southwest and extends beneath parts of JBER and downtown Anchorage and is truncated to the west by sea bluffs along Knik Arm of Cook Inlet. Composed of stratified outwash, the fan was likely deposited by ice-marginal, glacially fed streams, primarily during outburst-flooding events from ice-dammed lakes in the Eagle River Valley.

Hazardous Waste Accumulation

JBER accumulates waste at the central accumulation area (CAA; Building 4314) and at satellite accumulation areas (SAAs) located in the main cantonment of JBER. The CAA and SAAs are not located in wetlands, critical habitat, or in areas where direct drainage to a lake is present.

Building 4314 is operated by JBER Environmental Compliance (673 CES/CEIEC). Hazardous Waste can be accumulated at this building for a maximum of 90 days without a permit in accordance with RCRA requirements. Units and/or organizations drop off wastes or schedule waste pick-ups through JBER Environmental staff. Appropriately labeled and containerized wastes are transferred from the CAA to a permanent disposal facility in accordance with all regulatory standards.

Building 4314 is an “H”-shaped structure. The western portion of the building, including the center connection area is a 14,076 square-foot single-story structure; the eastern portion is a 9,133 square-foot area. The western portion of the structure is utilized as the Civil Engineering Structural Shop. The eastern structure and canopy areas are utilized as hazardous waste storage/handling areas with a small area built out for offices. The main part of the eastern structure is a garage-style bay where wastes are managed and temporarily accumulated for less than 90 days. This wood framed building was constructed in the 1950s or 1960s. Building 4314 is surrounded by a six-foot-tall chain-link fence topped with barbed wire. A parking lot for personnel and visitors is located outside the fenced area, on the south side of the building. Access to the building is gained through a locked gate with a remote telephone and buzzer. Visitors to the building must request access into the area by contacting facility personnel on the remote phone system or pressing the buzzer.

There are 87 buildings with hazardous waste SAAs on JBER, each of which is serviced by the installation hazardous materials/hazardous waste management contractor. The number of accumulation sites may vary over time as the installation mission varies. The wastes that are received by the CAA and SAAs primarily result from vehicle, aircraft, and equipment maintenance activities. Most of the wastes are used oils, recyclable fuels, paint related materials, cleaning solvents, lead-acid batteries, universal waste, and expired or excess hazardous materials. The Part A permit application includes a complete list of RCRA-regulated wastes generated at JBER.

Solid Waste Management Units

A solid waste management unit (SMWU) is any discernable unit at which solid wastes have been placed at any time, irrespective of whether the unit was intended for the management of solid or hazardous wastes. There are 46 known SMWUs at JBER. Several are managed under operating units (OUs) in accordance with CERCLA, while others are managed by the State of Alaska as CERCLA-exempted petroleum releases. The SWMUs are managed under federal facilities agreements for both Elmendorf Air Force Base and Fort Richardson. The table below includes a complete list of known SWMUs at JBER, including deferral type and site status.

Count	Site ID	Site Name	OU Description	Deferral Type	Site Closure Date	Status
1	AT029	FTRS-29	OU-A, Ruff Road Former Fire Training Area	ADEC	09/30/2051	Site Investigation; Land-Use Controls
2	AT035	MEB Complex, COF (FTR269C)	MEB Complex Phase 1 Fueling Point Facility	Richardson FFA	09/30/2051	Cleanup Complete with Institutional Controls
3	CG039		FTRS-39	OU-B, Poleline Road Disposal Area	Richardson FFA	09/30/2051
4	CG111	Johnson Ave Plume	Johnson Avenue Plume	ADEC	09/30/2028	Site Investigation and Risk Assessment
5	CG703	OU1 Northern Plume	OU-1, Northern Plume	Elmendorf FFA	09/30/2054	Feasibility Study
6	CG704	OU1 Southern Plume	OU-1, Southern Plume	Elmendorf FFA	09/30/2051	Site Investigation
7	DA089	FTRS-89	OU-E, Armored Vehicle Maintenance Area	Richardson FFA	09/30/2051	Remedy Optimization
8	DA090	RV Lot Drum & Debris Removal	RV Parking Lot Drum Site	Richardson FFA	09/30/2051	Site Investigation and Feasibility Study
9	DA115	PCB Soil Pile	DA115 PCB Soil Pile	Elmendorf FFA	09/30/2051	Interim Removal Action
10	DP009	FTRS-09	OU-A, Building 986 POL Lab Dry Well	ADEC	09/30/2051	Cleanup Complete with Institutional Controls
11	DP098	DP98 (TCE Contamination)	Buildings 18224 and 18220	Elmendorf FFA	09/30/2082	Site Investigation and Risk Assessment
12	FT023	Fire Training Area	OU-4, FT023 Fire Training Area	Elmendorf FFA	09/30/2051	Site Investigation
13	LF002	Landfill LF002	OU-6, LF002 Disposal Site	Elmendorf FFA	09/30/2051	Cleanup Complete with Institutional Controls
14	LF003	Sanitary Landfill	OU-6, LF003 Landfill	Elmendorf FFA	09/30/2051	Cleanup Complete with Institutional Controls
15	LF004	LF04 Knik Bluff Landfill	OU-6, LF004 Bluff Landfill	Elmendorf FFA	09/30/2051	Site Investigation
16	LF005	LF05 - OU1 Sanitary Landfill	OU-1, LF005, LF007, LF013, OT056	ADEC		Cleanup Complete with Institutional Controls
17	LF007	LF07 - OU1 Sanitary Landfill	OU-1, LF005, LF007, LF013, OT056	ADEC		Cleanup Complete with Institutional Controls
18	LF013	LF13 - OU1 Sanitary Landfill	OU-1, LF005, LF007, LF013, OT056	ADEC		Cleanup Complete with Institutional Controls
19	LF059	Asphalt Seep	OU-1, LF059 Tar Seep	Elmendorf FFA	09/30/2051	Cleanup Complete with Institutional Controls
20	OW118	Building 5374 OWS	Vehicle and Dumpster Wash Rack OWS	ADEC	09/30/2027	Interim Removal Action
21	PL081	Abandoned 10 POL Line -- North Jet	OU-6, PL081 North Jet Pipeline	ADEC	09/30/2023	Cleanup Complete with Institutional Controls
22	SA110	Former JBER-E IDW Facility	SA110 IDW Storage Yard	Elmendorf FFA	12/31/2026	Site Investigation and Risk Assessment
23	SD015	POL Sludge Disposal #2	OU-6, SD015 POL Sludge Disposal Site #2	Elmendorf FFA	09/30/2051	Remedy Optimization
24	SD025	Building 16430 Floor Drains	OU-4, SD025 Hangar 11 Building 16430	ADEC	09/30/2051	Cleanup Complete with Institutional Controls
25	SD029	Building 16716 Floor Drains	OU-4, SD029 Hangar 15 Building 16716	Elmendorf FFA	09/30/2051	Remedy Optimization
26	SO552	ST402	Building 8326 (ST402) and Building 8321 (SO552)	ADEC	09/30/2038	Site Investigation
27	SS013	CC-FTRS-13	SS013 MP Barracks	Richardson FFA	09/30/2051	Proposed Plan
28	SS022	DRMO Yard	SS022 Former DRMO Storage Yard	Elmendorf FFA	09/30/2052	Site Investigation and Risk Assessment
29	SS041	FTRS-41	OU-A, Roosevelt Road Transmitter Site	ADEC	09/30/2051	Cleanup Complete with Institutional Controls
30	SS047	FTRS-047	OU-D, Nike Site Summit	Richardson FFA	09/30/2051	Remedy Implementation
31	SS109	F22 Weapons Release Shop	SS109 F-22 Weapons Release Shop Building 17720	Elmendorf FFA	09/30/2027	Proposed Plan
32	SS116	Building 9480	SS116 Building 9480	Elmendorf FFA	09/30/2027	Site Investigation
33	SS117	AAFES Spill	SS117 Building 6210	ADEC	09/30/2051	Site Investigation and Risk Assessment
34	SS120	Building 974 North	SS120 Building 974	Richardson FFA	09/30/2051	Site Investigation
35	SS125	E Randall Rd.	SS125 Former Building 47203 Vehicle Maintenance Shop	Richardson FFA	09/30/2051	Site Investigation
36	ST032	Abandoned Underground Storage Tanks	ST032 29 USTs Building 13272	ADEC	09/30/2051	Each sub-site has different status
37	ST036	Diesel Fuel Line Leak at Building 27369	ST036 Diesel Fuel Line Leak Building 27369	ADEC	09/30/2051	Site Investigation
38	ST037	Diesel Fuel Line Leak	OU-5, ST037 Diesel Fuel Line	Elmendorf FFA	09/30/2051	Site Investigation
39	ST041	Four-Million Gallon Hill	OU-2, ST041 Four Million Gallon Hill	Elmendorf FFA	09/30/2051	Remedy Optimization
40	TU064	FTRS-64	TU064 Building 740 Department of Public Works	ADEC	09/30/2051	Cleanup Complete with Institutional Controls
41	TU091	AFID 130 OU	TU091 Building 8571 AFID 130-OU	ADEC	04/15/2028	Site Investigation
42	TU102	CC-FTRS-02 [FRA0000031]	TU102 Building 987 UST	ADEC	09/30/2051	Cleanup Complete with Institutional Controls
43	TU107	ST534	TU107 Boy Scout Hut (ST534)	ADEC	09/30/2051	Remedy Selection
44	TU117	CC-FTRS-17	TU117 Former Building 772	Richardson FFA	09/30/2051	Site Investigation and Risk Assessment
45	WP014	POL Sludge Disposal	OU-6, WP014 Sludge Disposal	Elmendorf FFA	09/30/2032	Remedy Optimization
46	XE023	FTRS-23	OU-C, OB/OD Area XE023	Richardson FFA	09/30/2051	Cleanup Complete with Institutional Controls

Open Burning/Open Detonation Pad

The OB/OD Pad is a graded upland gravel clearing adjacent to the ERF wetlands and within the boundary of the ERF impact area in the northwest sector of JBER. The pad borders an estuarine salt marsh on the south side of Knik Arm in upper Cook Inlet. Eagle River flows within 200 feet of the pad, and the riverbank appears to be eroding toward the pad. Knik Arm lies approximately 1.5 miles to the southwest. The OB/OD Pad is 10 miles north-northwest of central Anchorage, 4 miles west of the town of Eagle River, and 4 miles north of the main complex of JBER. The OB/OD Pad covers an area of approximately 16 acres.

The OB/OD Pad served as a former explosive ordinance disposal site for Fort Richardson at least since 1956 through 1988. It is a SWMU and a regulated unit as defined by the RCRA. The OB/OD Pad is physically located within the boundaries of the ERF active military munitions impact area. The OB/OD Pad is currently used as a training objective within the

ERF, with targets located on the pad including shipping containers, old military tank carcasses, and vehicles constructed of wood. JBER intends to keep the facility in delayed closure while the ERF Impact Area is active. The JBER explosive ordinance disposal (EOD) team clears the road and pad at the OB/OD area each year after winter firing at the ERF to ensure there are no UXO that resulted from winter firing at ERF. If they find an unexploded round on or near the road or pad, they will detonate it to clear the training area for infantry troops to access the road and pad for summertime training events. It is anticipated that the closure plan, required by Section II.B. of the draft Permit, will be implemented at an unknown point in the future when JBER is no longer using the ERF Impact Area or JBER is closed.

D. CONTENTS OF THE PERMIT

The draft Permit updates the previously issued permit from December 16, 2003, which was modified on December 1, 2010, and expired on December 15, 2013. According to the 2003 Permit, its conditions remain in effect until the permit is reissued.

Proposed Changes to Requirements for Hazardous Waste Storage

The 2003 Permit included requirements for storing hazardous waste at Building 11735, also referred to in the permit application as the Treatment, Storage, and Disposal Facility (TSDF). The TSDF was successfully clean closed on September 12, 2022, and the EPA accepted the Certification of Closure on November 22, 2022. Accordingly, the TSDF and its associated requirements for storing hazardous waste will not be included in the reissued permit.

Moving forward, hazardous waste at JBER will be accumulated for a maximum of 90 days under the Large Quantity Generator regulations pursuant to 40 CFR 262.17.

Part I. Standard Conditions

Part I of the draft Permit outlines standard conditions that are applicable to all RCRA permits. The draft Permit includes applicable EPA regulations from Title 40 of the Code of Federal Regulations, Parts 260 through 270. The draft Permit outlines the design and operation of the facility, establishes safety standards, and describes performance activities, such as monitoring and reporting.

The draft Permit sets limits on permitted releases of hazardous waste and constituents to the environment, and specifies the requirements for handling, storing, treating, and disposing of waste. The draft Permit also includes provisions for contingency planning and emergency response. The permittee is responsible for complying with all conditions of the permit and for reporting any deviations from these conditions to the EPA.

Part II. Closure of the OB/OD Unit

Part II of the draft Permit contains requirements for the closure of the OB/OD unit. The OB/OD unit is currently in delayed closure, and JBER intends to delay its final closure until the use of the ERF impact area ceases or JBER itself closes.

The EPA reviewed the OB/OD closure plan included in the 2022 permit application and required revisions to ensure its completeness and compliance with all relevant closure requirements. The plan is currently referred to as an interim closure plan because JBER must update it as required by EPA and must obtain final EPA approval before commencing closure activities.

Part III. Corrective Action for Solid Waste Management Units

Part III of the draft Permit outlines requirements for implementing corrective action measures to protect human health and the environment from any hazardous waste releases or constituents from any SWMU at the Facility, regardless of when the waste was placed in the unit.

This section of the draft Permit establishes a framework for addressing newly-identified, newly-discovered, or newly-created SWMUs; newly-detected releases of hazardous waste and/or constituents from any SWMU; and JBER's obligations related to corrective action.

The Fort Richardson Federal Facility Agreement and the Elmendorf Air Force Base Federal Facility Agreement—entered into by the Permittee, the ADEC, and the EPA Administrator—are existing mechanisms currently being used to investigate and clean up releases of hazardous waste and constituents to protect human health and the environment at the Facility. The FFAs are included as appendices to the draft Permit. Investigations and cleanups conducted under the FFAs are required to meet or exceed all applicable or relevant and appropriate state and federal requirements, including RCRA.

The language in the introduction to this section of the draft Permit has been updated to emphasize and clarify that the Facility is subject to RCRA, CERCLA and ADEC's applicable cleanup authorities.

E. PERMIT ORGANIZATION

The draft Permit is divided into three parts and eight attachments, as described below:

Part I	Standard Conditions
Part II	Closure of the OB/OD Unit
Part III	Corrective Action for Solid Waste Management Units
Attachment 1	RCRA Part A Application
Attachment 2	Facility Description
Attachment 3	Contingency Plan
Attachment 4	Facility Location Information
Attachment 5	Description of Solid Waste Management Units
Attachment 6a	Elmendorf AFB Federal Facility Agreement
Attachment 6b	Fort Richardson Federal Facility Agreement
Attachment 7	Interim Closure Plan for OB/OD Area
Attachment 8	List of Solid Waste Management Units (SWMUs)

ATTACHMENT C

I hereby certify that this is a true copy of the original thereof.

Carolyn J. Glendon
of Attorneys for U.S. EPA.

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8 UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, REGION 10
9 AND THE
10 ALASKA DEPARTMENT OF ENVIRONMENTAL CONSERVATION
11 AND THE
12 UNITED STATES AIR FORCE

13 IN THE MATTER OF:)

14 The U.S. Department of Defense,
15 Elmendorf Air Force Base)

16 Anchorage, Alaska)

) FEDERAL FACILITY AGREEMENT
) UNDER CERCLA SECTION 120

) Administrative Docket Number:

) 1089-07-19-120
)

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21 ATTACHMENT 1--Generic Schedules and Source Distribution

22 Based on the information available to the Parties on
23 the effective date of this Federal Facility Agreement
24 ("Agreement"), and without trial or adjudication of any issues of
25 fact or law, the Parties agree as follows:

1 I. JURISDICTION

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

4 1.1 The United States Environmental Protection
5 Agency ("U.S. EPA"), Region 10, enters into those portions of
6 this Agreement that relate to the Remedial Investigation/
7 Feasibility Study ("RI/FS") pursuant to Section 120(e)(1) of the
8 Comprehensive Environmental Response, Compensation, and Liability
9 Act ("CERCLA"), 42 U.S.C. § 9620(e)(1), as amended by the
10 Superfund Amendments and Reauthorization Act of 1986 ("SARA"),
11 Pub. L. 99-499 (hereinafter jointly referred to as "CERCLA");
12 Sections 3004(u) and (v), 3008(h), and 6001 of the Resource
13 Conservation and Recovery Act ("RCRA"), 42 U.S.C. §§ 6924(u) and
14 (v), 6928(h), and 6961, as amended by the Hazardous and Solid
15 Waste Amendments of 1984 ("HSWA") (hereinafter jointly referred
16 to as RCRA); and Executive Order 12580;

17 1.2 U.S. EPA, Region 10, enters into those
18 portions of this Agreement that relate to interim actions and
19 final remedial actions pursuant to Section 120(e)(2) of CERCLA,
20 42 U.S.C. § 9620(e)(2); Sections 3004(u) and (v), 3008(h), and
21 6001 of RCRA, 42 U.S.C. §§ 6924(u) and (v), 6928(h), and 6961;
22 and Executive Order 12580;

23 1.3 USAF enters into those portions of this
24 Agreement that relate to the RI/FS pursuant to Section 120(e)(1)
25 of CERCLA, 42 U.S.C. § 9620(e)(1); Sections 3004(u) and (v),
26 3008(h), and 6001 of RCRA, 42 U.S.C. §§ 6924(u) and (v), 6928,

1 Attachments shall be incorporated by reference and are an
2 integral and enforceable part of this document;

3 (c) "ARAR" or "Applicable or Relevant and
4 Appropriate Requirement" shall mean any standard, requirement,
5 criterion, or limitation as provided in Section 121(d)(2) of
6 CERCLA, 42 U.S.C. § 9621(d)(2), and the NCP;

7 (d) "Authorized representative" may include a
8 Party's contractors or any other designee;

9 (e) "CERCLA" shall mean the Comprehensive
10 Environmental Response, Compensation, and Liability Act of 1980,
11 42 U.S.C. § 9601 et seq., as amended by the Superfund Amendments
12 and Reauthorization Act of 1986 ("SARA"), Pub. L. 99-499;

3 (f) "Community Relations" is defined in 40 CFR
14 300.5 and shall mean U.S. EPA's program to inform and encourage
15 public participation in the Superfund process and to respond to
16 community concerns. The term "public" includes citizens directly
17 affected by the Site, other interested citizens or parties,
18 organized groups, elected officials, and potentially responsible
19 parties;

20 (g) "Days" shall mean calendar days, unless
21 otherwise specified. Any submittal that under the terms of this
22 Agreement would be due on a Saturday, Sunday, or federal or state
23 holiday shall be due on the following business day;

24 (h) "Feasibility Study" or "FS" is defined in
25 40 CFR 300.5 and shall mean a study undertaken by the lead agency
26 to develop and evaluate options for remedial action. The FS

1 emphasizes data analysis and is generally performed concurrently
2 and in an interactive fashion with the Remedial Investigation
3 ("RI"), using data gathered during the RI. The RI data are used
4 to define the objectives of the response action, to develop
5 remedial action alternatives, and to undertake an initial
6 screening and detailed analysis of the alternatives. The term
7 also refers to a report that describes the results of the study;

8 (i) "Interim Actions" or "IAs" are discussed in
9 the Preamble to 40 CFR 300.430(a)(1), 55 Fed. Reg. 8703-8706
10 (March 8, 1990), and shall mean all discrete actions implemented
11 under remedial authority that are taken to prevent or minimize
12 the release of hazardous substances, pollutants, or contaminants
13 so that they do not endanger human health or the environment.

14 Interim actions shall neither be inconsistent with nor preclude
15 implementation of the final expected Site remedy and shall be
16 undertaken in accordance with the NCP, 40 CFR Part 300, as
17 amended, and with the requirements of CERCLA;

18 (j) "Limited Field Investigation" or "LFI" shall
19 mean screening investigations of potential source areas with
20 inadequate data to determine whether these areas pose an
21 unacceptable risk to human health or the environment;

22 (k) "NCP" shall mean the National Oil and
23 Hazardous Substances Pollution Contingency Plan, 40 CFR Part 300,
24 as amended;

25 (l) "Operable Unit" or "OU" is defined in 40 CFR
26 300.5 and is a subdivision of the Site. The cleanup of the Site

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1 can be divided into a number of operable units, depending on the
2 complexity of the problems associated with the Site;

3 (m) "Paragraph" shall mean a numbered paragraph
4 of this Agreement, designated by an Arabic numeral;

5 (n) "Part" shall mean one of the thirty-seven
6 (37) subdivisions of this Agreement, designated by a Roman
7 numeral;

8 (o) "Parties" shall mean USAF, U.S. EPA, and
9 ADEC;

10 (p) "RCRA" shall mean the Resource Conservation
11 and Recovery Act, 42 U.S.C. § 6901 et seq., as amended by the
12 Hazardous and Solid Waste Amendments of 1984 ("HSWA"), Pub. L.
13 98-616;

14 (q) "Record of Decision" or "ROD" is discussed
15 at 40 CFR 300.430 and shall mean the document that summarizes the
16 selection of an interim action or a final remedial action, all
17 facts, analyses of facts, and source-specific policy
18 determinations considered in the course of carrying out
19 activities at the Site;

20 (r) "Remedial Action" or "RA" is defined in
21 40 CFR 300.5 and shall mean those actions consistent with
22 permanent remedy taken instead of, or in addition to, a removal
23 action in the event of a release or threatened release of a
24 hazardous substance into the environment, to prevent or minimize
25 the release of hazardous substances so that they do not migrate
26 to cause substantial danger to present or future public health or

1 welfare or the environment. The term includes, but is not
2 limited to, such actions at the location of the release as
3 storage, confinement, perimeter protection using dikes, trenches,
4 or ditches, clay cover, neutralization, cleanup of released
5 hazardous substances and associated contaminated materials,
6 recycling or reuse, diversion, destruction, segregation of
7 reactive wastes, dredging or excavations, repair or replacement
8 of leaking containers, collection of leachate and runoff,
9 on-site treatment or incineration, provision of alternative water
10 supplies, any monitoring reasonably required to assure that such
11 actions protect the public health and welfare and the environment
12 and, where appropriate, post-removal site control activities.
13 The term includes the costs of permanent relocation of residents
14 and businesses and community facilities, including the cost of
15 providing "alternative land of equivalent value" to an Indian
16 tribe pursuant to Section 126(b) of CERCLA, 42 U.S.C. § 9626(b),
17 where U.S. EPA determines that, alone or in combination with
18 other measures, such relocation is more cost-effective than, and
19 environmentally preferable to, the transportation, storage,
20 treatment, destruction, or secure disposition off-site of such
21 hazardous substances, or may otherwise be necessary to protect
22 the public health or welfare; the term includes off-site
23 transport and off-site storage, treatment, destruction, or secure
24 disposition of hazardous substances and associated contaminated
25 materials. For the purpose of the NCP, the term also includes
26 enforcement activities related thereto;

1 (s) "Remedial Design" or "RD" is defined in
2 40 CFR 300.5 and shall mean the technical analysis and procedures
3 that follow the selection of remedy for a Site and precede
4 implementation of the Remedial Action ("RA");

5 (t) "Remedial Investigation" or "RI" shall mean
6 a process undertaken by the lead agency to determine the nature
7 and extent of the problem presented by the release. The RI
8 emphasizes data collection and site characterization, and is
9 generally performed concurrently and in an interactive fashion
10 with the Feasibility Study ("FS"). The RI includes sampling and
11 monitoring, as necessary, and includes the gathering of
12 sufficient information to determine the necessity for remedial
13 action and to support the evaluation of remedial alternatives;

14 (u) "Remedial Investigation/Feasibility Study
15 Management Plan" shall mean a comprehensive document describing
16 all activities planned within the RI and the FS process to
17 include the Work Plan, Field Sampling Plan ("FSP"), Quality
18 Assurance Project Plan ("QAPP"), Health and Safety Plan ("HSP"),
19 and the Community Relations Plan ("CRP");

20 (v) "Removal" is defined by Section 311(a)(8) of
21 the Clean Water Act ("CWA"), 33 U.S.C. 1321(a)(8), and shall mean
22 the removal of oil or hazardous substances from the water and
23 shorelines or the taking of such other actions as may be
24 necessary to minimize or mitigate damage to the public health,
25 welfare, or to the environment. As defined by Section 101(23) of
26 CERCLA, 42 U.S.C. § 9601(23), removal shall mean the cleanup or

1 removal of released hazardous substances from the environment;
2 such actions as may be necessary in the event of the threat of
3 release of hazardous substances into the environment; such
4 actions as may be necessary to monitor, assess, and evaluate the
5 release or threat of release of hazardous substances; the
6 disposal of removed material; or the taking of such other actions
7 as may be necessary to prevent, minimize, or mitigate damage to
8 the public health or welfare or to the environment that may
9 otherwise result from a release or threat of release. The term
10 includes, in addition, without being limited to, security fencing
11 or other measures to limit access, provision of alternative water
12 supplies, temporary evacuation and housing of threatened
13 individuals not otherwise provided for, action taken under
14 Section 104(b) of CERCLA, 42 U.S.C. § 9604(b), post-removal site
15 control, where appropriate, and any emergency assistance that may
16 be provided under the Disaster Relief Act of 1974. For the
17 purpose of the NCP, the term also includes enforcement activities
18 related thereto;

19 (w) "Response" is defined by Section 101(25) of
20 CERCLA, 42 U.S.C. § 9601(25), and 40 CFR 300.5, and shall mean
21 removal, remedy, or remedial action, including enforcement
22 activities related thereto;

23 (x) "Scope of Work" shall mean the planning
24 document prepared by the USAF, in consultation with U.S. EPA and
25 ADEC, and in accordance with OSWER Directive 9835.8 that
26 identifies the source-specific objectives and general management

1 approach for the RI/FS process for the Site and/or operable
2 unit(s);

3 (y) "Site" shall mean the areal extent of
4 contamination and shall include sources of contamination subject
5 to this Agreement at the Elmendorf ("Elmendorf AFB"), which
6 occupies approximately thirteen thousand one hundred and thirty
7 (13,130) acres, bordered by the Municipality of Anchorage,
8 Alaska, to the south. The Site includes any off-base area(s)
9 contaminated by the migration of hazardous substances,
10 pollutants, or contaminants from Elmendorf AFB;

11 (z) "Statement of Work" shall mean the detailed
12 elaboration of the Scope of Work that defines the requirements
13 for developing a management plan;

14 (aa) "USAF" shall mean the United States Air
15 Force and, to the extent necessary to effectuate the terms of
16 this Agreement (including appropriations and congressional
17 reporting requirements), its employees, contractors, agents,
18 successors, assigns, and authorized representatives;

19 (bb) "U.S. EPA" shall mean the United States
20 Environmental Protection Agency, including Region 10, its
21 employees, and authorized representatives; and

22 (cc) "Work Plan" shall mean the RI/FS or RA Work
23 Plan that is to be prepared in accordance with Office of Solid
24 Waste and Emergency Response ("OSWER") Directives 9355.3-01
25 (October 1988) and 9355.0-4A (June 1986), and the NCP.

1 III. PURPOSE

2 3.1 The general purposes of this Agreement are
3 to:

4 (a) Ensure that the environmental impacts associated
5 with past and present activities at the Site are thoroughly
6 investigated and appropriate removal and/or remedial action(s)
7 taken as necessary to protect the public health, welfare, and the
8 environment;

9 (b) Establish a procedural framework and schedule for
10 developing, implementing, and monitoring appropriate response
11 actions at the Site in accordance with CERCLA, the NCP, Superfund
12 guidance and policy, RCRA, RCRA guidance and policy, and
13 applicable state law; and,

14 (c) Facilitate cooperation, exchange of information,
15 and participation of the Parties in such actions.

16 3.2 Specifically, the purposes of this Agreement are
17 to:

18 (a) Identify removal and interim action ("IA")
19 alternatives that are appropriate at the Site prior to the
20 implementation of final remedial action(s) for the Site. IA
21 alternatives shall be identified and proposed to the Parties as
22 early as possible prior to formal proposal of IA(s) to U.S. EPA
23 and ADEC pursuant to CERCLA and applicable state law. This
24 process is designed to promote cooperation among the Parties in
25 identifying IA alternatives prior to selection of final IA(s);

26 (b) Establish requirements for the performance of an

1 RI to determine fully the nature and extent of the threat to the
2 public health or welfare or the environment caused by the release
3 or threatened release of hazardous substances, pollutants, or
4 contaminants at the Site, and to establish requirements for the
5 performance of an FS for the Site to identify, evaluate, and
6 select alternatives for the appropriate remedial action(s) to
7 prevent, mitigate, or abate the release or threatened release of
8 hazardous substances, pollutants, or contaminants at the Site in
9 accordance with CERCLA and applicable state law;

10 (c) Identify the nature, objective, and schedule of
11 response actions to be taken at the Site. Response actions at
12 the Site shall attain that degree of cleanup of hazardous
13 substances, pollutants, or contaminants mandated by CERCLA and
14 applicable state law;

15 (d) Implement the selected interim and final remedial
16 action(s) in accordance with CERCLA and applicable state law, and
17 meet the requirements of Section 120(e)(2) of CERCLA, 42 U.S.C.
18 § 9620(e)(2), for an interagency agreement among the Parties;

19 (e) Assure compliance, through this Agreement, with
20 RCRA and other federal and state hazardous waste laws and
21 regulations for matters covered herein;

22 (f) Coordinate response actions at the Site with the
23 mission and support activities at Elmendorf AFB;

24 (g) Expedite the cleanup process to the extent
25 consistent with protection of human health and the environment;

26 (h) Provide for ADEC involvement in the initiation,
27

1 development, selection, and enforcement of remedial actions to be
2 undertaken at Elmendorf AFB, including the review of all
3 applicable data as it becomes available, and the development of
4 studies, reports, and actions plans; and to identify and
5 integrate state ARARs into the remedial action process; and

6 (i) Provide for operation and maintenance of any
7 remedial action selected and implemented pursuant to this
8 Agreement.

9
10 IV. PARTIES BOUND

11 4.1 This Agreement shall apply to and be binding
12 upon USAF, U.S. EPA, and ADEC. This Agreement shall also apply
13 to subsequent owners and operators of any portion of the Site.

14 USAF agrees to include notice of this Agreement in any document
15 transferring ownership of property owned by the United States to
16 any subsequent owners and operators of any portion of the Site in
17 accordance with Section 120(h) of CERCLA, 42 U.S.C. § 120(h),
18 40 CFR §§ 264.119 and 264.120, and Part XXXII of this Agreement.

19 4.2 USAF will notify U.S. EPA and ADEC of the
20 identity of its contractors performing work under this Agreement.

21 USAF shall provide copies of this Agreement to all contractors
22 performing work under this Agreement. USAF shall ensure that
23 whenever an Architect-Engineer firm is selected by negotiated
24 procurement specifically to perform work under this Agreement,
25 U.S. EPA and ADEC shall be invited to review the Standard Forms
26 254 (Architect-Engineer and Related Services Questionnaire) and

1 255 (Architect- Engineer and Related Services Questionnaire for
2 Specific Contract) concerning prospective Architect-Engineer
3 firms before the Preselection Board prepares its preselection
4 list.

5 4.3 Under no condition shall a Party under this
6 Agreement utilize the services of any consultant, prime
7 contractor, or subcontractor who has been suspended, debarred, or
8 voluntarily excluded within the scope of 40 CFR Part 32 or under
9 the Federal Acquisition Regulation ("FAR") at 48 CFR Subpart 9.4
10 et seq.

11 4.4 Each undersigned representative of a Party
12 certifies that he or she is fully authorized to enter into the
13 terms and conditions of this Agreement and to legally bind such
14 Party to this Agreement.

15
16 V. RCRA-CERCLA INTEGRATION

17 5.1 The Parties intend to integrate USAF's
18 CERCLA response obligations and RCRA corrective action
19 obligations that relate to the release(s) of hazardous
20 substances, hazardous wastes, pollutants, or contaminants covered
21 by this Agreement into this comprehensive Agreement. Therefore,
22 the Parties intend that activities covered by this Agreement will
23 achieve compliance with CERCLA, 42 U.S.C. 9601 et seq.; satisfy
24 the corrective action requirements of Sections 3004(u) and (v) of
25 RCRA, 42 U.S.C. § 6924(u) and (v), for a RCRA permit, and Section
26 3008(h), 42 U.S.C. § 6928(h), for interim status facilities; and

1 meet or exceed all applicable or relevant and appropriate federal
2 and state laws and regulations, to the extent required by Section
3 121 of CERCLA, 42 U.S.C. § 9621, and applicable state law.

4 5.2 Based upon the foregoing, the Parties intend
5 that any remedial action selected, implemented, and completed
6 under this Agreement will be protective of human health and the
7 environment such that remediation of releases covered by this
8 Agreement shall obviate the need for further corrective action
9 under RCRA (i.e., no further corrective action shall be
10 required). The Parties agree that with respect to releases of
11 hazardous waste covered by this Agreement, RCRA shall be
12 considered an ARAR pursuant to Section 121 of CERCLA, 42 U.S.C.
13 § 9621. Releases or other hazardous waste activities not covered
14 by this Agreement remain subject to all applicable state and
15 federal environmental requirements.

16 5.3 The Parties recognize that the requirement
17 to obtain permits for response actions undertaken pursuant to
18 this Agreement shall be as provided for in CERCLA and the NCP.
19 The Parties further recognize that ongoing hazardous waste
20 management activities at Elmendorf AFB may require the issuance
21 of permits under federal and state laws. This Agreement does not
22 affect the requirements, if any, to obtain such permits.
23 However, if a permit is issued to USAF for ongoing hazardous
24 waste management activities at the Site, U.S. EPA or ADEC shall
25 reference and incorporate any appropriate provisions, including
26 appropriate schedules (and the provision for extension of such

1 schedules), of this Agreement into such permit. With respect to
2 those portions of this Agreement incorporated by reference into
3 permits, the Parties intend that judicial review of the
4 incorporated portions shall, to the extent authorized by law, be
5 reviewed only under the provisions of CERCLA.

6 5.4. Nothing in this Agreement shall alter either
7 USAF's authority or ADEC's rights with respect to removal actions
8 conducted pursuant to Section 104 of CERCLA, 42 U.S.C. § 9604.

9
10 VI. FINDINGS OF FACT

11 6.1 For purposes of this Agreement, the
12 following constitutes a summary of the facts upon which this
13 Agreement is based. None of the facts related herein are
14 admissions nor are they legally binding upon any Party with
15 respect to any unrelated claims of persons not a Party to this
16 Agreement.

17 6.2 Elmendorf AFB covers thirteen thousand one
18 hundred and thirty (13,130) acres in the municipality of
19 Anchorage, Alaska.

20 6.3 The major sources of hazardous waste on the
21 base include industrial shops, fire fighting training activities,
22 fuels management and landfill practices.

23 6.4 Elmendorf AFB was proposed for inclusion on
24 the CERCLA National Priorities List ("NPL") in July 1989, and
25 listed as final in August 1990. 55 Fed. Reg. 35502.
26 (August 30, 1990).

1 VII. REGULATORY DETERMINATIONS

2 7.1 For purposes of this Agreement, the
3 following constitutes a summary of the Regulatory Determinations
4 upon which this Agreement is based. None of the Regulatory
5 Determinations related herein are admissions nor are they legally
6 binding upon any Party with respect to any unrelated claims of
7 person(s) not a Party to this Agreement.

8 7.2 Elmendorf AFB is a Site within the meaning
9 of Section 101(9) of CERCLA, 42 U.S.C. § 9601(9);

10 7.3 Hazardous substances, pollutants, or
11 contaminants within the meaning of Sections 101(14) and 104(a)(2)
12 of CERCLA, 42 U.S.C. §§ 9601(14) and 9604(a)(2), have been
13 disposed of at the Site;

14 7.4 There have been releases of hazardous
15 substances, pollutants, or contaminants into the environment
16 within the meaning of Sections 101(22), 104, 106, and 107 of
17 CERCLA, 42 U.S.C. §§ 9601(22), 9604, 9606, and 9607, at and from
18 the Site;

19 7.5 With respect to those releases, USAF is an
20 owner and/or operator within the meaning of Section 107 of
21 CERCLA, 42 U.S.C. § 9607;

22 7.6 The actions to be taken pursuant to this
23 Agreement are reasonable and necessary to protect human health
24 and the environment; and

25 7.7 A reasonable time for beginning and/or
26 completing the actions has been, or will be, provided.

1 VIII. SCOPE OF AGREEMENT

2 A. Work to be Performed

3 8.1 The Parties intend that work done and data
4 generated prior to the effective date of this Agreement be
5 retained and utilized to the maximum extent technically feasible
6 in accordance with applicable law.

7 8.2 USAF will conduct and finance the cost of
8 the RI/FS consultant studies in accordance with the RI/FS
9 Management Plan and implement the RD/RA at the Site in accordance
10 with the final RD and the RA Work Plan, and all relevant statutes
11 and regulations.

12 8.3 All work performed pursuant to this
13 Agreement shall be under the direction and supervision, or in
14 consultation with a qualified engineer, geologist, or equivalent
15 expert with expertise in hazardous substances site investigation
16 and remediation.

17 8.4 USAF shall perform the tasks and submit
18 plans, reports, and other documents as required by the Plans.

19 8.5 These matters are set forth in more detail
20 below and in the subsequent RI/FS Management Plans and RA Work
21 Plans. This Agreement fully incorporates the provisions of these
22 Plans that relate to the implementation of this Agreement,
23 including, but not limited to, definitions and procedures for
24 submission, review, and approval of documents. In the event of
25 any inconsistency between this Agreement and the Plans, this
26 Agreement shall govern unless and until duly amended pursuant to

1 Part XXXIII of this Agreement.

2 B. Limited Field Investigations

3 8.6 USAF shall develop and implement Limited
4 Field Investigations ("LFI") as described in Attachment 1.

5 C. Interim Actions

6 8.7 USAF shall develop and implement Interim
7 Actions ("IAs") that shall be set forth in an RI/FS Management
8 Plan, where appropriate, and/or modified pursuant to Part XX.
9 The IA(s) shall be consistent with the purposes set forth in Part
10 III of this Agreement.

11 D. Remedial Investigations

12 8.8 USAF shall develop, implement, and report
13 upon remedial investigations of the Site. These investigations
14 shall comply with applicable requirements of CERCLA; the NCP;
15 and, to the extent set forth in this Agreement, pertinent written
16 guidance and U.S. EPA policy.

17 E. Feasibility Studies

18 8.9 USAF shall design, propose, undertake, and
19 report upon feasibility studies for the Site. These studies
20 shall comply with applicable requirements of CERCLA; the NCP;
21 and, to the extent set forth in this Agreement, pertinent written
22 guidance and U.S. EPA policy.

23 F. Remedial Actions

24 8.10 USAF shall develop and submit its proposed
25 RA alternative. ADEC may recommend to U.S. EPA the RA
26 alternative it deems appropriate. U.S. EPA and USAF, in

1 consultation with ADEC, shall make final selection of the RA(s)
2 for each OU. In the event of disagreement, U.S. EPA shall make
3 final selection of the RA(s). The selection of RA(s) by the
4 U.S. EPA Administrator shall be final, subject to Part XXXVI.

5 G. Technical Review Committee

6 8.11 Pursuant to 10 U.S.C. § 2705(c), USAF shall
7 establish a Technical Review Committee ("TRC").

8 8.12 The purpose of the TRC is to afford a forum
9 for cooperation between USAF and concerned local officials and
10 citizens and to provide a meaningful opportunity for the members
11 of the TRC to become informed and to express their opinion about
12 significant aspects of the RI/FS or the RD/RA process.

13
14 IX. PROJECT MANAGERS

15 9.1 U.S. EPA, ADEC, and USAF shall each
16 designate a Project Manager and Alternate (hereinafter jointly
17 referred to as Project Manager) for the purpose of overseeing the
18 implementation of this Agreement. Within five (5) days of the
19 effective date of this Agreement, each Party shall notify the
20 other Parties of the name and address of its Project Manager.
21 Any Party may change its designated Project Manager by notifying
22 the other Parties, in writing, within five (5) days of the
23 change. Communications between the Parties concerning the terms
24 and conditions of this Agreement shall be directed through the
25 Project Managers as set forth in Part XIV of this Agreement. Each
26 Project Manager shall be responsible for assuring that all

1 communications from the other Project Managers are appropriately
2 disseminated and processed by their respective Agencies.

3 9.2 Project Managers shall have the authority
4 to: (1) take samples, request split samples, and ensure that
5 work is performed properly and in accordance with the terms of
6 any final Management Plan; (2) observe all activities performed
7 pursuant to this Agreement, take photographs, and make such other
8 reports on the progress of the work as the Project Managers deem
9 appropriate; (3) review records, files, and documents relevant to
10 this Agreement; (4) recommend and request minor field
11 modifications to the work to be performed pursuant to the
12 Agreement, or in techniques, procedures, or designs utilized in
13 carrying out this Agreement; (5) exercise the authorities granted
14 to them in this Part, and the NCP; and (6) act in accordance with
15 Paragraph 33.1 (Modification/Amendment of Agreement).

16 9.3 Each Project Manager shall be, or rely on, a
17 qualified and competent person with experience in hazardous
18 substances site investigations and remedial actions and having
19 the skills necessary to implement this Agreement.

20 9.4 The Project Managers may, in accordance with
21 Part XX(J) of this Agreement, make modifications to the work to
22 be performed pursuant to this Agreement, or in techniques,
23 procedures, or designs utilized in carrying out this Agreement.
24 Any minor field modification proposed by any Party pursuant to
25 this Part must be approved orally by all Parties' Project
26 Managers to be effective. The USAF Project Manager will make a

1 (2) reviewing the progress of USAF, its response action
2 contractors, or agents in implementing this Agreement;
3 (3) conducting such tests as ADEC and U.S. EPA Project Managers
4 deem necessary; and (4) verifying the data submitted to U.S. EPA
5 and ADEC by USAF. USAF shall honor all requests for such access
6 by U.S. EPA and ADEC, subject only to any statutory or regulatory
7 requirement as may be necessary to protect national security or
8 mission-essential activities. In the event that access requested
9 by either U.S. EPA or ADEC is denied by USAF, USAF shall, within
10 forty-eight (48) hours, provide a written explanation of the
11 reason for the denial, including reference to the applicable
12 regulations, and, upon request, a copy of such regulations. USAF
13 shall expeditiously make alternative arrangements for
14 accommodating the requested access. USAF shall not restrict the
15 access rights of U.S. EPA or ADEC to any greater extent than USAF
16 restricts the access rights of its contractors performing work
17 pursuant to this Agreement.

18 10.2 To the extent that this Agreement requires
19 access to property not owned and controlled by USAF, USAF shall
20 exercise its authorities to obtain access pursuant to Section
21 104(e) of CERCLA, 42 U.S.C. § 9604(e), and will make every
22 reasonable effort to obtain signed access agreements for itself,
23 its contractors, agents, U.S. EPA, and ADEC, and provide U.S. EPA
24 and ADEC with copies of such agreements. With respect to
25 non-USAF property upon which monitoring wells, pumping wells,
26 treatment facilities, or other response actions are to be

1 located, the access agreements should provide that no conveyance
2 of title, easement, or other interest in the property shall be
3 consummated without provisions for the continued operation of
4 such wells, treatment facilities, or other response actions on
5 the property. The access agreements should also provide to the
6 extent practicable that the owners of any property where
7 monitoring wells, pumping wells, treatment facilities, or other
8 response actions are located shall notify the USAF, ADEC, and the
9 U.S. EPA by certified mail, at least thirty (30) days prior to
10 any conveyance, of the property owner's intent to convey any
11 interest in the property and of the provisions made for the
12 continued operation of the monitoring wells, treatment
13 facilities, or other response actions installed pursuant to this
14 Agreement.

15 10.3 Nothing in this Part shall be construed to
16 limit the discretion of USAF to exercise the authority of the
17 President under Section 104(e) of CERCLA, 42 U.S.C. § 9604(e), as
18 delegated by Executive Order 12580.

19

20 XI. SAMPLING AND DATA/DOCUMENT AVAILABILITY

21 11.1 The Parties shall make available to each
22 other quality-assured results of sampling, tests, or other data
23 generated by or on behalf of any Party under this Agreement
24 within sixty (60) days of collection or field testing. If
25 quality assurance is not completed within sixty (60) days,
26 preliminary data or results shall be made available within the

27

1 sixty (60) day period and quality assured data or results shall
2 be submitted as they become available but in no event later than
3 one hundred (100) days after the sampling or testing. These
4 periods can be extended upon mutual agreement among the Project
5 Managers.

6 11.2 At the request of either the ADEC or
7 U.S. EPA Project Manager, USAF shall allow split or duplicate
8 samples to be taken by ADEC or U.S. EPA during sample collection
9 conducted during the implementation of this Agreement. USAF's
10 Project Manager shall notify the U.S. EPA and ADEC Project
11 Managers not less than fourteen (14) business days in advance of
12 any well drilling, sample collection, or other monitoring
13 activity, conducted pursuant to this Agreement. The fourteen
14 (14) day notification can be waived upon mutual agreement among
15 the Project Managers.

16 11.3 If preliminary analysis indicates a
17 potential imminent and substantial endangerment to the public
18 health, all Project Managers shall be immediately notified.

19 11.4 Laboratory reports shall be made available
20 at the Site for the review of the Parties immediately upon
21 completion of laboratory analysis.

22

23 XII. QUALITY ASSURANCE

24 12.1 Throughout all sample collection,
25 transportation, and analyses activities conducted in connection
26 with this Agreement, USAF shall use procedures for quality

27

1 assurance, and for quality control, and for chain-of-custody in
2 accordance with approved U.S. EPA methods, including "Interim
3 Guidelines and Specifications for Preparing Quality Assurance
4 Project Plans," QAMS-005/80, "Data Quality Objective Guidance,"
5 U.S. EPA 1540/687/003 and 004, and subsequent amendments to such
6 guidelines. USAF shall require each laboratory it uses to
7 perform any analysis according to approved U.S. EPA methods and
8 to demonstrate a quality assurance/quality control program
9 equivalent to that followed by U.S. EPA and consistent with
10 U.S. EPA document QAMS-005/80.

11
12 XIII. REPORTING

13 13.1 USAF shall submit to the other Parties
14 quarterly written progress reports. The reports will include,
15 but not be limited to, the following information:

16 (a) A detailed summary of all of the remedial,
17 removal, and investigation activities during the previous
18 quarter, including any analytical results, any community
19 relations activities, and any community contacts or inquiries
20 related to the hazardous substance contamination at the Site;

21 (b) An outline of the planned activities for the
22 upcoming quarter;

23 (c) A detailed statement of the manner and the
24 extent to which the timetables and deadlines are being met;

25 (d) The status of efforts to obtain
rights-of-entry necessary for monitoring and well installation

1 off-Base; and

2 (e) The status of any other activities proposed
3 or underway that may affect any phase of the activities described
4 in the Attachments.

5 13.2 The quarterly written progress reports shall
6 be submitted on the tenth (10th) day of each calendar quarter
7 following the effective date of this Agreement.

8

9 XIV. NOTICE TO THE PARTIES

10 14.1 All Parties shall expeditiously transmit
11 primary and secondary documents, and all notices required herein.
12 Time limitations shall commence upon receipt.

13 14.2 Unless otherwise provided, notice to the
14 individual Parties shall be provided under this Agreement to the
15 following addresses:

16

17 (A) For the USAF:
21 CSG/DEEV
22040 Maple Street
18 Elmendorf AFB, Alaska 99506-3240
19 (907) 552-4157/4618

20

(B) For U.S. EPA:

21

U.S. Environmental Protection Agency
22 Alaska Operations Office
222 W. 7th Avenue, Box 19
23 Anchorage, Alaska 99513
(907) 271-5083
and

24

25

U.S. Environmental Protection Agency
26 Federal Facility Section
1200 Sixth Avenue, HW-074
Seattle, Washington 98101
(206) 442-6642

27

28

1 (C) For the State of Alaska:

2 Alaska State Department of
3 Environmental Conservation
4 South Central Office
5 Contaminated Site Program
6 3601 C Street, Suite 1334
7 Anchorage, Alaska 99503
8 (907) 563-6529

9
10 XV. PERMITS

11 15.1 Nothing in this Agreement relieves USAF from
12 the requirement of obtaining an otherwise applicable permit or
13 other authorization whenever it proposes a response action
14 involving the shipment or movement off-site of a hazardous
15 substance, or undertakes any activities not directly related to
16 response actions at the Site.
17

18 XVI. RETENTION OF RECORDS

19 16.1 The Parties shall preserve for a minimum of
20 ten (10) years after termination of this Agreement all records
21 and documents in their possession or in the possession of their
22 divisions, employees, agents, accountants, contractors, or
23 attorneys that relate to the presence of hazardous wastes,
24 hazardous substances, pollutants, and contaminants at the Site or
25 to the implementation of this Agreement, despite any document
26 retention policy to the contrary. After this ten (10) year
27 period, the Parties shall notify one another at least forty-five
28 (45) days prior to destruction or disposal of any such documents
or records. Upon request by any Party, all Parties shall make
available such records or documents, or true copies to one

1 another. Documents may be converted to permanent electronic or
2 optical media and paper originals disposed of after
3 forty-five (45) days notification to the other Parties.
4

5 XVII. PUBLIC PARTICIPATION AND ADMINISTRATIVE RECORD

6 17.1 The Parties agree that this Agreement and
7 any subsequent plan(s) for remedial action at the Site arising
8 out of this Agreement shall comply with the administrative record
9 and public participation requirements of CERCLA, including
10 Section 117 of SARA, the NCP, and U.S. EPA guidance on public
11 participation and administrative records.

12 17.2 USAF shall develop and implement a Community
13 Relations Plan ("CRP") that responds to the need for an
14 interactive relationship with all interested community elements,
15 both on- and off-Site, regarding activities and elements of work
16 undertaken by USAF. USAF agrees to develop and implement the CRP
17 in a manner consistent with Section 117 of SARA, 42 U.S.C.
18 § 9613(k), the NCP, and U.S. EPA guidance.

19 17.3 USAF shall establish and maintain an
20 administrative record at or near Elmendorf AFB in accordance with
21 Section 113(k) of CERCLA, 42 U.S.C. § 9613(k). The
22 administrative record shall be established and maintained in
23 accordance with U.S. EPA policy and guidelines. A copy of each
24 document included in the administrative record developed by USAF
25 shall expeditiously be provided to ADEC and U.S. EPA upon written
26 request. USAF shall provide to U.S. EPA and ADEC an Index of

1 documents in the administrative record on a quarterly basis, if
2 changes have occurred.

3
4 XVIII. CREATION OF DANGER/EMERGENCY ACTION

5 18.1 In the event U.S. EPA or ADEC determine that
6 activities conducted pursuant to this Agreement, or any other
7 circumstances or activities, are creating an imminent and
8 substantial endangerment to the health or welfare of the people
9 on the Site or in the surrounding area or to the environment,
10 U.S. EPA or ADEC may require or order USAF to stop further
11 implementation of this Agreement for such period of time as
12 needed to abate the danger. Any unilateral work stoppage for
13 longer than twenty-four (24) hours requires the concurrence of
14 the U.S. EPA Division Director, in accordance with Paragraph
15 21.9.

16 18.2 In the event USAF determines that activities
17 undertaken in furtherance of this Agreement or any other
18 circumstances or activities at the Site are creating an imminent
19 and substantial endangerment to the health or welfare of the
20 people on the Site or in the surrounding area or to the
21 environment, USAF may stop implementation of this Agreement for
22 such periods of time necessary for U.S. EPA and ADEC to evaluate
23 the situation and determine whether USAF should proceed with
24 implementation of the Agreement or whether the work stoppage
25 should be continued until the danger is abated. USAF shall
26 notify the other Parties as soon as is possible, but not later

1 than twenty-four (24) hours after such stoppage of work, and
2 provide U.S. EPA and ADEC with documentation of its analysis in
3 reaching this determination. If, after consultation with ADEC,
4 U.S. EPA disagrees with the USAF determination, it may require
5 USAF to resume implementation of this Agreement.

6 18.3 If U.S. EPA concurs in the work stoppage by
7 USAF, or if U.S. EPA or ADEC require or order a work stoppage,
8 USAF's obligations shall be suspended and the time periods for
9 performance of that work, as well as the time period for any
10 other work dependent upon the work that was stopped, shall be
11 extended, pursuant to Part XXV of this Agreement. Any
12 disagreements pursuant to this Part shall be resolved through the
13 dispute resolution procedures in Part XXI of the Agreement by
14 referral directly to the DRC.

15
16 XIX. FIVE YEAR REVIEW

17 19.1 If a remedial action is selected that
18 results in any hazardous substances, pollutants, or contaminants
19 remaining at the Site, the Parties shall review such remedial
20 action no less often than each five (5) years after the
21 initiation of such remedial action to assure that human health
22 and the environment are being protected by the remedial action
23 being implemented. The U.S. EPA Project Manager and the ADEC
24 Project Manager shall advise the USAF Project Manager of their
25 findings in this regard. If any Party determines that additional
26 action is required, the Agreement may be amended pursuant to Part

1 XXXVIII. If the Parties are unable to agree on the need to amend
2 this Agreement, dispute resolution under Part XXI shall be
3 available to any Party.
4

5 XX. CONSULTATION WITH U.S. EPA AND ADEC

6 A. Applicability

7 20.1 The provisions of this Part establish the
8 procedures that shall be used by the Parties to provide each
9 other with appropriate notice, review, comment, and response to
10 comments regarding RI/FS and RD/RA documents, specified herein as
11 either primary or secondary documents. In accordance with
12 Section 120 of CERCLA, 42 U.S.C. § 9620, and 10 U.S.C. § 2705,
13 USAF will normally be responsible for issuing primary and
14 secondary documents to U.S. EPA and ADEC. As of the effective
15 date of this Agreement, all draft and draft final documents for
16 any deliverable document identified herein shall be prepared,
17 distributed, and subject to dispute in accordance with Paragraphs
18 20.3 through 20.24.

19 20.2 The designation of a document as "draft" or
20 "final" is solely for purposes of consultation with U.S. EPA and
21 ADEC in accordance with this Part. Such designation does not
22 affect the obligation of the Parties to issue documents, which
23 may be referred to herein as "final," to the public for review
24 and comment as appropriate and as required by law.

25 B. General Process for RI/FS and RD/RA Documents

26 20.3 Primary documents include those documents

1 that are major, discrete portions of RI/FS or RD/RA activities.
2 Primary documents are initially issued by USAF in draft subject
3 to review and comment by U.S. EPA and ADEC. Following receipt of
4 comments on a particular draft primary document, USAF will
5 respond to the comments received and issue a draft final primary
6 document subject to dispute resolution. The draft final primary
7 document shall become the final primary document either thirty
8 (30) days after submittal of a draft final document if dispute
9 resolution is not invoked, unless otherwise agreed as provided in
10 Paragraph 20.18, or as modified by decision of the dispute
11 resolution process. U.S. EPA and ADEC shall, within the first
12 fifteen (15) days of this thirty (30) day period for finalization
13 of primary documents, identify to USAF any issues or comments in
14 order to provide sufficient time for review, discussion, and
15 modification of draft final documents as necessary to resolve
16 potential disputes.

17 20.4 Secondary documents include those documents
18 that are discrete portions of the primary documents and are
19 typically input or feeder documents. Secondary documents are
20 issued by USAF in draft subject to review and comment by U.S. EPA
21 and ADEC. Although USAF will respond to comments received, the
22 draft secondary documents may be finalized in the context of the
23 corresponding primary documents. A secondary document may be
24 disputed only at the time the corresponding draft final primary
25 document is issued.

26

27

1 C. Primary Documents

2 20.5 USAF shall complete and transmit draft
3 documents for the following primary documents to U.S. EPA and
4 ADEC for review and comment in accordance with the provisions of
5 this Part:

- 6 (a) Base-wide Investigation Work Plan
7 (b) RI/FS Management Plan, including Work Plan, Field
8 Sampling Plan ("FSP"), Quality Assurance Project
9 Plan ("QAPP"), and Treatability Study Work Plan
10 (c) Community Relations Plan ("CRP") [Base-wide]
11 (d) RI/FS Report (including RI, Baseline Risk
12 Assessment, FS)
13 (e) ROD(s)
14 (f) Remedial Design/Remedial Action ("RD/RA") Scope
15 of Work, including
16 - Critical path schedule for RD/RA and
17 start of RA work element
18 - Funding needs and availability for
19 RD/RA
20 - Description of each remedial work
21 element
22 - CRP Amendment
23 (g) Remedial Design
24 (h) Remedial Action Work Plan

25 20.6 Only the draft final documents for the
5 primary documents identified above shall be subject to dispute

1 resolution. USAF shall complete and transmit draft primary
2 documents in accordance with the schedules and deadlines
3 established pursuant to Part XXIV of this Agreement. Primary
4 documents may include target dates for subtasks as provided for
5 in Paragraph 20.8. The purpose of target dates is to assist USAF
6 in meeting deadlines, but target dates do not become enforceable
7 by their inclusion in the primary documents and are not subject
8 to Parts XXII, XXIV, and/or XXV.

9 D. Secondary Documents

10 20.7 USAF shall complete and transmit draft
11 documents for the following secondary documents to U.S. EPA and
12 ADEC for review and comment in accordance with the provisions of
13 this Part:

- 14 (a) LFI Work Plan
- 15 (b) LFI Report
- 16 (c) Conceptual Site Model/Data Quality Objectives
- 17 (d) ARARs Evaluation
- 18 (e) Health and Safety Plan ("HSP")
- 19 (f) Base-Wide Background Sampling Plan
- 20 (g) Base-Wide Ecological Survey
- 21 (h) RI Report
- 22 (i) Baseline Risk Assessment
- 23 (j) Proposed Plan
- 24 (k) 35% Remedial Design
- 25 (l) 60% Remedial Design

26 20.8 Although U.S. EPA and ADEC may comment on

1 the draft documents for the secondary documents listed above,
2 such documents shall not be subject to dispute resolution except
3 as provided by Paragraph 20.4. Target dates shall be established
4 pursuant to Part XXIV of this Agreement for the completion and
5 transmission of draft secondary documents.

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

7 20.9 The Project Managers shall meet
8 approximately every thirty (30) days, except as otherwise agreed
9 by the Parties, to review and discuss the progress of work being
10 performed at the Site on the primary and secondary documents.
11 Prior to preparing any draft report specified in Paragraphs 20.5
12 and 20.7 above, the Project Managers shall meet to discuss the
13 report results in an effort to reach a common understanding, to
14 the maximum extent practicable, with respect to the results to be
15 presented in the draft report. Prior to the development of
16 either a Statement of Work, Management Plan, or Sampling and
17 Analysis Plan, the Project Managers shall meet to develop a Scope
18 of Work that will be used when preparing a Sampling and Analysis
19 Plan or Management Plan for a remedial site inspection or
20 investigation.

21 F. Identification and Determination of Potential ARARs

22 20.10 For those primary or secondary documents
23 that consist of or include ARAR determinations, prior to the
24 issuance of a draft document the Project Managers shall meet to
25 identify and propose, to the best of their ability, all potential
26 ARARs pertinent to the report being addressed. Draft ARAR

1 determinations shall be prepared in accordance with Section
2 121(d)(2) of CERCLA, 42 U.S.C. § 9621(d)(2), the NCP, and
3 pertinent written guidance issued by U.S. EPA and ADEC, that is
4 not inconsistent with CERCLA and the NCP.

5 20.11 In identifying potential ARARs, the Parties
6 recognize that actual ARARs can be identified only on a
7 source-specific basis and that ARARs depend on the specific
8 hazardous substances, pollutants, and contaminants at a source,
9 the particular actions proposed as a remedy, and the
10 characteristics of a source. The Parties recognize that ARAR
11 identification is necessarily an iterative process and that
12 potential ARARs must be re-examined throughout the RI/FS process
13 until a ROD is issued.

14 G. Review and Comment on Draft Documents

15 20.12 USAF shall complete and transmit each draft
16 primary document to U.S. EPA and ADEC on or before the
17 corresponding deadline established for the issuance of the
18 document. USAF shall complete and transmit the draft secondary
19 document in accordance with the target dates established for the
20 issuance of such documents.

21 20.13 Unless the Parties mutually agree to another
22 time period, all draft documents shall be subject to a thirty
23 (30) day period for review and comment. Review of any document
24 by U.S. EPA or ADEC may concern all aspects of the report
25 (including completeness) and should include, but is not limited
26 to, technical evaluation of any aspect of the document, and

1 consistency with CERCLA, the NCP, applicable state laws, and any
2 pertinent guidance or policy issued by U.S. EPA or ADEC.
3 Comments by U.S. EPA and ADEC shall be provided with adequate
4 specificity so that USAF may respond to the comments and, if
5 appropriate, make changes to the draft document. Comments shall
6 refer to any pertinent sources of authority or references upon
7 which the comments are based, and, upon request of USAF, U.S. EPA
8 or ADEC shall provide a copy of the cited authority or reference.
9 In unusual circumstances, U.S. EPA and ADEC may extend the thirty
10 (30) day comment period for an additional twenty (20) days by
11 written notice to USAF prior to the end of the thirty (30) day
12 period. On or before the close of the comment period, U.S. EPA
13 and ADEC shall transmit by next day mail their written comments
14 to USAF.

15 20.14 Representatives of USAF shall make
16 themselves readily available to U.S. EPA and ADEC during the
17 comment period for purposes of informally responding to questions
18 and comments on draft documents. Oral comments made during such
19 discussions need not be the subject of a written response by USAF
20 on the close of the comment period.

21 20.15 In commenting on a draft document that
22 contains a proposed ARAR determination, U.S. EPA and ADEC shall
23 include a reasoned statement of whether they object to any
24 portion of the proposed ARAR determination. To the extent that
25 U.S. EPA or ADEC do object, they shall explain the basis for
their objection in detail and shall identify any ARARs that they

1 believe were not properly addressed in the proposed ARAR
2 determination.

3 20.16 Following the close of the comment period
4 for a draft document, USAF shall give full consideration to all
5 written comments on the draft document submitted during the
6 comment period. Within thirty (30) days of the close of the
7 comment period on a draft secondary document, USAF shall transmit
8 to U.S. EPA and ADEC its written response to comments received
9 within the comment period. Within thirty (30) days of the close
10 of the comment period on a draft primary document, USAF shall
11 transmit to U.S. EPA and ADEC a draft final primary document that
12 shall include USAF's response to all written comments received
13 within the comment period. While the resulting draft final
14 document shall be the responsibility of USAF, it shall be the
15 product of consensus to the maximum extent possible.

16 20.17 USAF may extend the thirty (30) day period
17 for either responding to comments on a draft document or for
18 issuing the draft final primary document for an additional twenty
19 (20) days by providing notice to U.S. EPA and ADEC. In
20 appropriate circumstances, this time period may be further
21 extended in accordance with Part XXV.

22 H. Availability of Dispute Resolution for
23 Draft Final Primary Documents

24 20.18 Project Managers may agree to extend by
25 fifteen (15) days the period for finalization of the draft final
26 primary documents provided in Paragraph 20.3 as necessary for
27 discussion and modification of draft final primary documents as

1 necessary to resolve potential disputes.

2 20.19 Dispute resolution shall be available to the
3 Parties for draft final primary documents as set forth in Part
4 XXI.

5 20.20 When dispute resolution is invoked on a
6 draft final primary document, work may be stopped in accordance
7 with the procedures set forth in Part XXI.

8 I. Finalization of Documents

9 20.21 The draft final primary document shall serve
10 as the final primary document if no Party invokes dispute
11 resolution regarding the document or, if invoked, at completion
12 of the dispute resolution process should USAF's position be
13 sustained. If USAF's determination is not sustained in the
14 dispute resolution process, USAF shall prepare, within not more
15 than thirty-five (35) days, a revision of the draft final
16 document that conforms to the results of dispute resolution. In
17 appropriate circumstances, the time period for this revision
18 process may be extended in accordance with Part XXV hereof.

19 J. Subsequent Modifications

20 20.22 Following finalization of any primary
21 document pursuant to Paragraph 20.20 above, any Party may seek to
22 modify the document, including seeking additional field work,
23 pilot studies, computer modeling, or other supporting technical
24 work, only as provided in Paragraphs 20.22 and 20.23.

25 20.23 A Party may seek to modify a document,
26 including Attachment 1, after finalization if it determines,

1 based on new information (i.e., information that became
2 available, or conditions that became known, after the document
3 was finalized) that the requested modification is necessary. A
4 Party may seek such a modification by submitting a concise
5 written request to the Project Managers of the other Parties.
6 The request shall specify the nature of the requested
7 modification and how the request is based on new information.

8 20.24 In the event that a consensus among the
9 Parties is reached, the modification shall be incorporated by
10 reference and become fully enforceable under the Agreement. In
11 the event that a consensus is not reached by the Project Managers
12 on the need for a modification, any Party may invoke dispute
13 resolution as provided in Part XXI to determine if such
14 modification shall be conducted. Modification of a document
15 shall be required only upon a showing that: (1) the requested
16 modification is based on significant new information, and (2) the
17 requested modification could be of significant assistance in
18 evaluating effects on human health or the environment, in
19 evaluating the selection of remedial alternatives, or in
20 protecting human health and the environment.

21 20.25 Nothing in this Part shall alter U.S. EPA's
22 or ADEC's ability to request the performance of additional work
23 that was not contemplated by this Agreement. USAF's obligation
24 to perform such work must be established by either a modification
25 of a report or document or by amendment to this Agreement.

1 XXI. RESOLUTION OF DISPUTES

2 21.1 Except as specifically set forth elsewhere
3 in this Agreement, if a dispute arises under this Agreement, the
4 procedures of this Part shall apply. All Parties to this
5 Agreement shall make reasonable efforts to informally resolve
6 disputes at the Project Manager or immediate supervisor level.
7 If resolution cannot be achieved informally, the procedures of
8 this Part shall be implemented to resolve a dispute.

9 21.2 Within thirty (30) days after: (1) the
10 issuance of a draft final primary document pursuant to this
11 Agreement, or (2) any action that leads to or generates a
12 dispute, the disputing Party shall submit to the Dispute
13 Resolution Committee ("DRC") a written statement of dispute
14 setting forth the nature of the dispute, the work affected by the
15 dispute, the disputing Party's position with respect to the
16 dispute, and the technical, legal, or factual information the
17 disputing Party is relying upon to support its position.

18 21.3 Prior to any Party's issuance of a written
19 statement of dispute, the disputing Party shall engage the other
20 Parties in informal dispute resolution among the Project Managers
21 and/or their immediate supervisors. During this informal dispute
22 resolution period the Parties shall meet as many times as are
23 necessary to discuss and attempt resolution of the dispute.

24 21.4 The DRC will serve as a forum for resolution
25 of disputes for which agreement has not been reached through
informal dispute resolution. The Parties shall each designate

1 one individual and an alternate to serve on the DRC. The
2 individuals designated to serve on the DRC shall be employed at
3 the policy level (SES or equivalent) or be delegated the
4 authority to participate on the DRC for the purposes of dispute
5 resolution under this Agreement. The U.S. EPA representative on
6 the DRC is the Hazardous Waste Division Director ("Division
7 Director") of U.S. EPA's Region 10. USAF's designated member is
8 the Vice Commander, 11th Air Force (PACAF). ADEC's designated
9 member is the Section Chief of the Contaminated Site Section
10 ("Section Chief"), Alaska Department of Environmental
11 Conservation. Written notice of any delegation of authority from
12 a Party's designated representative on the DRC shall be provided
13 to all other Parties.

14 21.5 Following elevation of a dispute to the DRC,
15 the DRC shall have twenty-one (21) days to unanimously resolve
16 the dispute and issue a written decision. If the DRC is unable to
17 unanimously resolve the dispute within this twenty-one (21) day
18 period, the written statement of dispute shall be forwarded to
19 the Senior Executive Committee (SEC) for resolution within seven
20 (7) days after the close of the twenty-one (21) day resolution
21 period.

22 21.6 The SEC will serve as the forum for
23 resolution of disputes for which agreement has not been reached
24 by the DRC. The U.S. EPA representative on the SEC is the
25 Regional Administrator of U.S. EPA's Region 10. USAF's
26 representative on the SEC is the Deputy Assistant Secretary of

1 the Air Force for Environment, Safety and Occupational Health.
2 ADEC's representative on the SEC is the Director, Division of
3 Spill Prevention and Response, Alaska Department of Environmental
4 Conservation. The SEC members shall, as appropriate, confer,
5 meet, and exert their best efforts to resolve the dispute and
6 issue a written decision. If unanimous resolution of the dispute
7 is not reached within twenty-one (21) days, U.S. EPA's Regional
8 Administrator shall issue a written position on the dispute.
9 USAF or ADEC may, within fourteen (14) days of the Regional
10 Administrator's issuance of U.S. EPA's position, issue a written
11 notice elevating the dispute to the Administrator of U.S. EPA for
12 resolution in accordance with all applicable laws and procedures.
13 In the event that USAF or ADEC elect not to elevate the dispute
14 to the Administrator within the designated fourteen (14) day
15 escalation period, USAF and/or ADEC shall be deemed to have
16 agreed with the Regional Administrator's written position with
17 respect to the dispute.

18 21.7 Upon escalation of a dispute to the
19 Administrator of U.S. EPA pursuant to Paragraph 21.6, the
20 Administrator will review and resolve the dispute within
21 twenty-one (21) days. Upon request, and prior to resolving the
22 dispute, the U.S. EPA Administrator shall meet and confer with
23 USAF's Secretariat Representative and the Commissioner of ADEC or
24 the Commissioner's representative to discuss the issue(s) under
25 dispute. The Administrator will provide notice to all Parties of
any Party's request to meet or confer with respect to any such

1 dispute and will provide an adequate opportunity for all Parties
2 to participate in any meeting or conference convened to resolve
3 such dispute. Upon resolution, the Administrator shall provide
4 USAF and ADEC with a written final decision setting forth
5 resolution of the dispute. The duties of the Administrator set
6 forth in this Part shall not be delegated.

7 21.8 The pendency of any dispute under this Part
8 shall not affect USAF's responsibility for timely performance of
9 the work required by this Agreement, except that the time period
10 for completion of work affected by such dispute shall be extended
11 for a period of time usually not to exceed the actual time taken
12 to resolve any good faith dispute in accordance with the
13 procedures specified herein. All elements of the work required
14 by this Agreement that are not affected by the dispute shall
15 continue and be completed in accordance with the applicable
16 schedule.

17 21.9 When dispute resolution is in progress, work
18 affected by the dispute will immediately be discontinued if the
19 Division Director for U.S. EPA's Region 10 or the ADEC Section
20 Chief request, in writing, that work related to the dispute be
21 stopped because, in U.S. EPA's or ADEC's opinion, such work is
22 inadequate or defective, and such inadequacy or defect is likely
23 to yield an adverse effect on human health or the environment, or
24 is likely to have a substantial adverse effect on the remedy
25 selection or implementation process. To the extent possible,
26 U.S. EPA and ADEC shall consult with all Parties prior to

1 permitted by Section 310 of CERCLA, 42 U.S.C. § 9659, this
2 Agreement is enforceable by any person, and the violation of any
3 standard, regulation, condition, requirement, or order contained
4 herein will be subject to civil penalties under Sections 310(c)
5 and 109 of CERCLA, 42 U.S.C. §§ 9659(c) and 9609;

6 (b) All deadlines associated with the RI/FS
7 shall be enforceable by any person pursuant to Section 310 of
8 CERCLA, 42 U.S.C. § 9659, and any violation of such deadlines
9 will be subject to civil penalties under Sections 109 and 310(c)
10 of CERCLA, 42 U.S.C. §§ 9609 and 9659(c);

11 (c) All terms and conditions of this Agreement
12 that relate to interim or final remedial actions, including
13 corresponding schedules and deadlines, and all work associated
14 with the interim or final remedial actions, shall be enforceable
15 by any person pursuant to Section 310(c) of CERCLA, 42 U.S.C.
16 § 9659(c), and any violation of such terms or conditions will be
17 subject to civil penalties under Sections 109 and 310(c) of
18 CERCLA, 42 U.S.C. §§ 9609 and 9659(c); and

19 (d) Any final resolution of a dispute pursuant
20 to Part XXI of this Agreement that establishes a term, condition,
21 schedule, or deadline shall be enforceable by any person pursuant
22 to Section 310(c) of CERCLA, 42 U.S.C. § 9659(c), and any
23 violation of such term, condition, schedule, or deadline will be
24 subject to civil penalties under Sections 109 and 310(c) of
25 CERCLA, 42 U.S.C. §§ 9609 and 9659(c).

26 22.2 The Parties agree that all Parties shall

1 have the right to enforce the terms of this Agreement.

3 XXIII. STIPULATED PENALTIES

4 23.1 In the event that USAF fails to submit a
5 primary document to U.S. EPA and ADEC pursuant to the appropriate
6 timetable or deadline in accordance with the requirements of this
7 Agreement, or fails to comply with a term or condition of this
8 Agreement that relates to an interim or final remedial action,
9 U.S. EPA may assess a stipulated penalty against USAF. A
10 stipulated penalty may be assessed in an amount not to exceed
11 five thousand dollars (\$5,000) for the first week (or part
12 thereof), and ten thousand dollars (\$10,000) for each additional
13 week (or part thereof) for which a failure set forth in this
14 paragraph occurs.

15 23.2 Upon determining that USAF has failed in a
16 manner set forth in Paragraph 23.1, U.S. EPA shall so notify USAF
17 in writing. If the failure in question is not already subject to
18 dispute resolution at the time such notice is received, USAF
19 shall have fifteen (15) days after receipt of the notice to
20 invoke dispute resolution on the question of whether the failure
21 did, in fact, occur. USAF shall not be liable for the stipulated
22 penalty assessed by U.S. EPA if the failure is determined,
23 through the dispute resolution process, not to have occurred. No
24 assessment of a stipulated penalty shall be final until the
25 conclusion of dispute resolution procedures related to the
assessment of the stipulated penalty.

1 23.3 The annual reports required by Section
2 120(e)(5) of CERCLA, 42 U.S.C. § 9620(e)(5), shall include, with
3 respect to each final assessment of a stipulated penalty against
4 USAF under this Agreement, each of the following:

- 5 a. The facility responsible for the failure;
6 b. A statement of the facts and circumstances
7 giving rise to the failure;
8 c. A statement of any administrative or other
9 corrective action taken at the relevant
10 facility, or a statement of why such
11 measures were determined inappropriate;
12 d. A statement of any additional action taken
13 by or at the facility to prevent recurrence
14 of the same type of failure; and
15 e. The total dollar amount of the stipulated
16 penalty assessed for the particular failure.

17 23.4 Stipulated penalties assessed pursuant to
18 this Part shall be payable to the Hazardous Substances Response
19 Trust Fund only in the manner and to the extent expressly
20 provided for in Acts authorizing funds for, and appropriations
21 to, the U.S. Department of Defense.

22 23.5 In no event shall this Part give rise to a
23 stipulated penalty in excess of the amount set forth in Section
24 109 of CERCLA, 42 U.S.C. § 9609, or Section 3008 of RCRA,
25 42 U.S.C. § 6928.

26 23.6 This Part shall not affect USAF's ability to
27 obtain an extension of a timetable, deadline, or schedule
28 pursuant to Part XXV of this Agreement.

 23.7 Nothing in this Agreement shall be construed
to render any officer or employee of USAF personally liable for

1 the payment of any stipulated penalty assessed pursuant to this
2 Part.

3 XXIV. DEADLINES

4 24.1 Deadlines (subject to extension pursuant to
5 Part XXV and Part XXXIII) for the draft primary documents are
6 established in Attachment 1 (Table 3).

7 24.2 Within twenty-one (21) days of the effective
8 date of this Agreement, USAF shall propose target dates for
9 completion of appropriate draft secondary documents for each of
10 the OUs.

11 24.3 Within twenty-one (21) days of issuance of
12 each ROD, USAF shall submit the RD/RA Scope of Work that shall
13 include the schedule for submittal of post-ROD documents. If the
14 Parties agree on the proposed deadlines, the finalized deadlines
15 shall be incorporated into the Agreement. If the Parties fail to
16 agree within thirty (30) days of the proposed deadlines, the
17 matter shall immediately be submitted for dispute resolution
18 pursuant to Part XXI of this Agreement. The deadlines shall be
19 published utilizing the procedures set forth in Paragraph 24.5.

20 24.4 USAF shall provide notification to U.S. EPA
21 and ADEC within thirty (30) days of identifying an additional
22 potential source area that appears to require additional
23 investigation and/or remediation under the Agreement. A remedial
24 source evaluation shall, if appropriate, be undertaken by the
25 USAF to evaluate the potential releases of hazardous substances,
6 pollutants, or contaminants.

1 d. A delay caused, or that is likely to be caused,
2 by the grant of an extension in regard to another
deadline or schedule; and

3 e. Any other event or series of events mutually
4 agreed to by the Parties as constituting good
cause.

5 25.2 Absent agreement of the Parties with respect
6 to the existence of good cause, USAF may seek and obtain a
7 determination through the dispute resolution process that good
8 cause exists.

9 25.3 Within seven (7) days of receipt of a
10 request for an extension of a deadline or a schedule, the other
11 Parties shall attempt to advise USAF, in writing, of their
12 respective positions on the request. Any failure by the other
13 Parties to respond within twenty-one (21) days shall be deemed to
14 constitute concurrence in the request for extension. If either
15 U.S. EPA or ADEC does not concur in the requested extension, it
16 shall include in its statement of nonconcurrence an explanation
17 of the basis for its position.

18 25.4 If there is consensus among the Parties that
19 the requested extension is warranted, USAF shall extend the
20 affected deadline or schedule accordingly. If there is no
21 consensus among the Parties as to whether all or part of the
22 requested extension is warranted, the deadline or schedule shall
23 not be extended except in accordance with a determination
24 resulting from the dispute resolution process.

25 25.5 Within twenty-one (21) days of receipt of a
26 statement of nonconcurrence with the requested extension, USAF

1 may invoke dispute resolution.

2 25.6 A timely and good faith request for an
3 extension shall toll any assessment of stipulated penalties,
4 forfeiture of comment rights, or application for judicial
5 enforcement of the affected deadline or schedule until a decision
6 is reached on whether the requested extension will be approved.
7 If dispute resolution is invoked and the requested extension is
8 denied, stipulated penalties may be assessed and may accrue from
9 the date of the original deadline or the date U.S. EPA or ADEC
10 denied, in writing, USAF's requested extension, whichever is
11 later. Following the grant of an extension, an assessment of
12 stipulated penalties or an application for judicial enforcement
13 may be sought only to compel compliance with the timetable and
14 deadline or schedule as most recently extended.

15
16 XXVI. FORCE MAJEURE

17 26.1 A Force Majeure shall mean any event arising
18 from causes beyond the control of a Party that causes a delay in
19 or prevents the performance of any obligation under this
20 Agreement, including, but not limited to, acts of God; fire; war;
21 insurrection; civil disturbance; explosion; unanticipated
22 breakage or accident to machinery, equipment, or lines of pipe
23 despite reasonably diligent maintenance; adverse weather
24 conditions that could not be reasonably anticipated; unusual
25 delay in transportation; restraint by court order or order of
26 public authority; inability to obtain, at a reasonable cost and

1 after exercise of reasonable diligence, any necessary
2 authorizations, approvals, permits, or licenses due to action or
3 inaction of any governmental agency or authority other than USAF;
4 delays caused by compliance with applicable statutes or
5 regulations governing contracting, procurement, or acquisition
6 procedures, despite the exercise of reasonable diligence; and
7 insufficient availability of appropriated funds, if USAF shall
8 have made timely request for such funds as part of the budgetary
9 process as set forth in Part XXVII of this Agreement. A Force
10 Majeure shall also include any strike or other labor dispute,
11 whether or not within the control of the Parties affected
12 thereby. Force Majeure shall not include increased costs or
13 expenses of response actions, whether or not anticipated at the
14 time such response actions were initiated, or normally-occurring
15 difficulties posed by winter conditions that could have been
16 reasonably anticipated.

17
18 XXVII. FUNDING

19 27.1 It is the expectation of the Parties to this
20 Agreement that all obligations of USAF arising under this
21 Agreement will be fully funded. USAF agrees to seek sufficient
22 funding through the U.S. Department of Defense budgetary process
23 to fulfill its obligations under this Agreement.

24 27.2 In accordance with Section 120(e)(5)(B) of
25 CERCLA, 42 U.S.C. § 9620(e)(5)(B), USAF shall provide to the
26 U.S. Department of Defense for its annual report to Congress the

1 specific cost estimates and budgetary proposals associated with
2 the implementation of this Agreement.

3 27.3 Funds authorized and appropriated annually
4 by Congress under the "Environmental Restoration, Defense"
5 appropriation in the U.S. Department of Defense Appropriation Act
6 and allocated by the DASD(E) to USAF will be the source of funds
7 for activities required by this Agreement consistent with Section
8 211 of SARA, 10 U.S.C. Chapter 160. However, should the
9 Environmental Restoration, Defense appropriation be inadequate in
10 any year to meet the total U.S. Department of Defense
11 implementation requirements, the U.S. Department of Defense shall
12 employ and USAF shall follow a standardized U.S. Department of
13 Defense prioritization process that allocates that year's
14 appropriations in a manner that maximizes the protection of human
15 health and the environment. The standardized U.S. Department of
16 Defense prioritization model shall be utilized.

17 27.4 Any requirement for the payment or
18 obligation of funds, including stipulated penalties, by USAF
19 established by the terms of this Agreement shall be subject to
20 the availability of appropriated funds, and no provision herein
21 shall be interpreted to require obligation or payment of funds in
22 violation of the Anti-Deficiency Act, 31 U.S.C. § 1341. In cases
23 where payment or obligation of funds, including stipulated
24 penalties, would constitute a violation of the Anti-Deficiency
25 Act, the dates established requiring the payment or obligation of
26 such funds shall be appropriately adjusted.

1 27.5 If appropriated funds are not available to
2 fulfill USAF's obligations under this Agreement, U.S. EPA and
3 ADEC reserve the right to initiate an action against any other
4 person or to take any response action that would be appropriate
5 absent this Agreement.

6 27.6 USAF shall submit copies of all budget
7 request documents to U.S. EPA and ADEC by October 1 of each year
8 after the execution of this Agreement, and shall notify U.S. EPA
9 and ADEC of the actual amounts budgeted by February 1 of each
10 year. The budget documents shall clearly establish that USAF has
11 requested all necessary funds to carry out its obligations under
12 this Agreement for the applicable budget year. USAF shall honor
13 all reasonable requests by U.S. EPA or ADEC to obtain additional
14 documentation or information regarding the budget, and shall
15 respond to such requests within fifteen (15) days of the request.

16
17 XXVIII. RECOVERY OF EXPENSES

18 28.1 USAF and U.S. EPA agree to amend this Part
19 at a later date in accordance with any subsequent resolution of
20 the currently contested issue of cost reimbursement.

21 28.2 USAF and ADEC agree to use the Defense/State
22 Memorandum of Agreement signed on June 1, 1990, for the
23 reimbursement of services provided in direct support of the USAF
24 environmental restoration activities at the Site pursuant to this
25 Agreement.

1 XXIX. OTHER CLAIMS

2 29.1 Nothing in this Agreement shall constitute
3 or be construed as a bar or release from any claim, cause of
4 action, or demand in law or equity by or against any persons,
5 firm, partnership, or corporation not a signatory to this
6 Agreement for any liability it may have arising out of or
7 relating in any way to this Agreement or the generation, storage,
8 treatment, handling, transportation, release, or disposal of any
9 hazardous substances, hazardous wastes, pollutants, or
10 contaminants found at, taken to, or taken from Elmendorf AFB.

11 29.2 U.S. EPA and ADEC shall not be held as a
12 Party to any contract entered into by USAF to implement the
13 requirements of this Agreement.

14 29.3 USAF shall notify the appropriate federal
15 and state natural resource trustees as required by Section
16 104(b)(2) of CERCLA, 42 U.S.C. § 9604(e), and Section 2(e)(2) of
17 Executive Order 12580. Except as provided herein, USAF is not
18 released from the liability that it may have pursuant to any
19 provisions of state and federal law for any claim for damages or
20 liability for destruction of, or loss of, natural resources.

21 29.4 This Agreement shall not restrict U.S. EPA
22 and/or ADEC from taking any legal or response action for any
23 matter not covered by this Agreement.

24
25 XXX. OTHER APPLICABLE LAWS

26 30.1 All actions required to be taken pursuant to

1 this Agreement shall be undertaken in accordance with the
2 requirements of all applicable state and federal laws and
3 regulations unless an exemption from such requirements is
4 provided in this Agreement, CERCLA, or the NCP.

5
6 XXXI. CONFIDENTIAL INFORMATION

7 31.1 USAF may assert on its own behalf, or on
8 behalf of a contractor, subcontractor, or consultant, a
9 confidentiality claim covering all or part of the information
10 requested by any Party to this Agreement pursuant to Section 104
11 of CERCLA, 42 U.S.C. § 9604(e), and 32 CFR Part 806. Analytical
12 data shall not be claimed as confidential by USAF, unless it may
13 disclose information that has already been so classified for
14 reasons of national security. Information determined to be
15 confidential by USAF pursuant to 32 CFR Part 806 shall be
16 afforded the protection specified therein and such information
17 shall be treated by ADEC as confidential. If no claim of
18 confidentiality accompanies the information when it is submitted
19 to either regulatory agency, the information may be made
20 available to the public without further notice to USAF.

21
22 XXXII. TRANSFER OF PROPERTY

23 32.1 Conveyance of title, easement, or other
24 interest in Elmendorf AFB shall be in accordance with Section 120
25 of CERCLA, 42 U.S.C. § 9620.

1 XXXIII. MODIFICATION/AMENDMENT OF AGREEMENT

2 33.1 Modifications to and/or actions taken
3 pursuant to Parts XI (Sampling and Data/Document Availability),
4 XII (Quality Assurance), XX (Consultation with U.S. EPA and
5 ADEC), XXIV (Deadlines), XXV (Extensions), and Attachment 1
6 (Scope of Work) may be effected by the unanimous agreement of the
7 Project Managers.

8 33.2 Modifications or amendments not permitted by
9 Paragraph 33.1 may be effected only by the unanimous agreement of
10 the signatories or upon completion of Dispute Resolution, as
11 applicable.

12 33.3 Any modification or amendment shall be
13 reduced to writing; shall be effective as of the date it is
14 signed by all the Project Managers or signatories, as applicable;
15 and shall be incorporated into, and modify, this Agreement.

16
17 XXXIV. SEVERABILITY

18 34.1 If any provision of this Agreement is ruled
19 invalid, illegal, or unconstitutional, the remainder of the
20 Agreement shall not be affected by such ruling.

21
22 XXXV. TERMINATION AND SATISFACTION

23 35.1 The provisions of this Agreement shall be
24 deemed satisfied when the Parties unanimously agree that USAF has
25 completed its obligations under the terms of this Agreement. Any
26 Party may propose in writing the termination of this Agreement

1 upon a showing that the requirements of this Agreement have been
2 satisfied. A Party opposing termination of this Agreement shall
3 serve its objection upon the proposing Party within thirty (30)
4 days of receipt of the proposal. Any objection shall describe in
5 detail the additional work needed to satisfy the requirements of
6 the Agreement. Any Party may invoke dispute resolution as to the
7 request for or objection to a proposal to terminate.

8
9 XXXVI. RESERVATION OF RIGHTS

10 36.1 The Parties agree to exhaust their rights
11 under Parts XX and XXI prior to exercising any rights to judicial
12 review that they may have.

13 36.2 Nothing in this Agreement shall be construed
14 as a restriction or waiver of any rights that U.S. EPA or ADEC
15 may have under CERCLA, including, but not limited to, any rights
16 under Section 113 and 310 of CERCLA, 42 U.S.C. §§ 9613 and 9659.
17 The U.S. Department of Defense does not waive any rights it may
18 have under CERCLA Sections 120 and 121(f)(3)(C), 42 U.S.C.
19 §§ 9620 and 9621(f)(3)(C); Section 211 of SARA, 10 U.S.C.
20 Chapter 160; and Executive Order 12580.

21 36.3 ADEC reserves its right to maintain an
22 action under Section 121(f)(3)(B) of CERCLA, 42 U.S.C.
23 § 9621(f)(3)(B), to challenge the selection of a remedial action
24 that does not attain a legally applicable or relevant and
25 appropriate standard, requirement, criteria, or limitation
26 ("ARAR"). If ADEC exercises its right under Section 121(f)(3)(B)

Signature sheet for the foregoing Federal Facility

2 Agreement for the Elmendorf Air Force Base, among the
3 U.S. Environmental Protection Agency, the U.S. Department of the
4 Air Force, and the Alaska Department of Environmental
5 Conservation.

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7 

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9 DONALD J. CREIGHTON
Colonel, USAF
10 Vice Commander, 11th Air Force

11
12
13 15 Nov 91

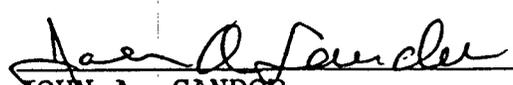
Date

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19 REPRESENTED BY:

20 Major James G. Van Ness, Esq.
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Signature sheet for the foregoing Federal Facility Agreement for the Elmendorf Air Force Base, among the U.S. Environmental Protection Agency, the U.S. Department of the Air Force, and the Alaska Department of Environmental Conservation.



JOHN A. SANDOR
Commissioner
Alaska Department of Environmental Conservation
State of Alaska

Nov. 12, 1991
Date



CHARLES E. COLE
Attorney General
State of Alaska

October 25, 1991
Date

REPRESENTED BY:

Breck C. Tostevin, Esq.

1 Signature sheet for the foregoing Federal Facility
2 Agreement for the Elmendorf Air Force Base, among the
3 U.S. Environmental Protection Agency, the U.S. Department of the
4 Air Force, and the Alaska Department of Environmental
5 Conservation.

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8 

9-30-91

9 DANA A. RASMUSSEN Date
10 Regional Administrator
11 Region 10
12 United States Environmental Protection Agency

13
14 REPRESENTED BY:
15 Cynthia L. Mackey, Esq.
16

Attachment 1

ELMENDORF AIR FORCE BASE FEDERAL FACILITY AGREEMENT SCOPE OF WORK

1. INTRODUCTION

The purpose of this Attachment is to set forth the elements of work required to be performed, to respond to hazardous substance/waste releases or threat of release at or from source areas at the Elmendorf Air Force Base (EAFB) which may pose a threat to human health or the environment. This document provides the site management approach to implement the remedial response process under the Agreement. The source areas at EAFB have been divided into seven manageable operable units (OUs) and a critical path schedule has been developed for performing the general remedial activities at each OU, as well as, the optimal sequence for performing each OU. The OUs at EAFB have been divided into three categories of remedial activities:

- Remedial Investigation/Feasibility Study (RI/FS) OUs
- Interim Action (IA) OUs
- Limited Field Investigation (LFI) OUs

All response activities performed by EAFB shall be consistent with the Agreement. Table 1 represents work schedules for completion of the decision process for each identified OU and was developed by the three parties during the Federal Facility Agreement negotiations. The table depicts starting, interim and completion dates for each OU. Primary document deadlines are enforceable and are contained in Table 3 of this Attachment. This table will be updated periodically.

2. SOURCE AREA GROUPING INTO OPERABLE UNITS

Thirty-two potential source areas have been identified at EAFB in previous studies. These source areas were placed into one of the OU categories. The potential source areas are listed in Table 2. No further action was selected for source areas SS-22 and RW-17, the DRMO Storage Area and Low Level Radioactive Waste sites. The basis for these decisions are contained in the EAFB Administrative Record. Criteria used to group sites into the three OU categories include:

- Availability and sufficiency of previously collected data to support remedy selection
- Similarities of source areas and contaminants
- Complexity and size of source areas
- Affected media, potential for migration, exposure pathways and receptors

Operable Units:

- Limited Field Investigation (LFI)
OU 4 LFI: Source areas SD-24, SD-25, SD-26, SD-27, SD-28, SD-29, SD-30, SD-31 and SS-18 and other units that may be identified in aerial photographs or other investigations.
- Remedial Investigation/Feasibility Study (RI/FS)
OU 1 RI/FS: Source areas LF-05, LF-07, LF-13, OT-56 and LF-59.

- OU 2 RI/FS: Source areas ST-41 and ST-20.
 - OU 3 RI/FS: Source areas SD-52, SD-16 and SS-21.
 - OU 4 RI/FS: The actual source areas will be dependent upon the results of the LFI which will be conducted on the source areas SD-24, SD-25, SD-26, SD-27, SD-28, SD-29, SD-30, SD-31 and SS-18 and other units that may be identified in aerial photographs or other investigations.
 - OU 5 RI/FS: Source areas ST-37, ST-38/SS-42, SD-40/ST-46 and SS-53.
 - OU 6 RI/FS: Source areas LF-04, WP-14 and LF-03. This is the last scheduled RI/FS to be initiated at EAFB. As such, any unfinished remedial investigative or engineering study work identified as necessary from the other LFI or RI/FS activities at EAFB will be completed in this RI/FS. Any ecological or human health cumulative risk effects which may become evident from the aggregate of source areas at EAFB not addressed in prior OU RI/FSs will also be covered under this OU RI/FS.
 - OU 7 RI/FS: Source areas FT-23, SS-10, SD-15 and SS-19.
- Interim Action (IA)
 - OU 4 IA: Contaminated soil/sediment found in the drain fields at source areas associated with the OU 4 LFI which represent a significant threat or potential threat to health or the environment will be addressed as an interim action.
 - OU 2 IA: Source area ST-41, the 4 million gallon hill tanks leakage into soil and groundwater, will be evaluated to determine if sufficient contamination remains in the vadose zone to represent a significant threat to human health or the environment. Depending upon the immediacy of the threat, soil contamination from volatile organics will be addressed as an interim action.
 - OU 7 IA: Source area FT-23, the fire training area has extensive groundwater contamination. Light non-aqueous phase liquid contamination, associated with past activities at this source area will be addressed as an interim action.

3. DESCRIPTION OF REMEDIAL ACTIVITIES

3.1 REMEDIAL INVESTIGATION/FEASIBILITY STUDY

The purpose of the remedial investigation/feasibility study (RI/FS) is to investigate the nature and extent of contamination at the Elmendorf Air Force Base (EAFB) site and to develop and evaluate remedial alternatives, as appropriate. Seven RI/FSs are currently planned for EAFB. Base-wide monitoring or other studies/investigations which are not OU-specific will be in an EAFB Work Plan which will include any necessary Sampling and Analysis Plans.

The specific RI/FS activities to be conducted in each RI/FS at the EAFB site are segregated as follows:

- Base-wide Work Plan to address non-OU specific studies necessary for implementation of the Agreement
- OU specific project planning (Conceptual Site Model and Data Quality Objectives)
- Base-wide Community Relations Plan development
- OU specific field investigations
- OU specific sample analysis/validation
- OU specific data evaluation
- OU specific human health risk and ecological assessment. The OU-specific ecological risk screening assessment will involve an ecological characterization of the source and identify significant ecological exposure pathways. Data gaps identified from OU specific ecological characterization screening studies will be addressed in the last scheduled OU RI/FS to maximize economy of resource utilization. The cumulative effects of specific source area contaminations will also be assessed in the last OU RI/FS which, based on the schedule is OU-6
- OU specific treatability studies
- OU specific RI Report, including Baseline Risk Assessment
- OU specific Remedial Alternatives Development and Screening
- OU specific Detailed Analysis of Alternatives
- OU specific RI/FS Report

To the maximum extent practicable, components of Field Sampling Plans, Quality Assurance Project Plans, Work Plans, and Health and Safety Plans approved under an earlier OU submission will be utilized in subsequent submissions to expedite the review process and achieve consistency in the overall remedial action approach.

3.2 INTERIM ACTIONS

The purpose of the IA-OUs at the EAFB are to achieve early action using remedial authority at those sites which meet the IA general principles that are discussed in the NCP. If at anytime the information submitted to support the IA is found to be equivalent to that obtained during an RI/FS and the OU is separable, then the IA may be upgraded to an **early final action**.

The Preamble of the NCP, 55 *Federal Register* 8703-8706 (March 8, 1990) states that to implement an early action under remedial authority, an operable unit for which an interim action is appropriate is identified. IA decisions are intended for straightforward sites that are limited in scope. Data sufficient to support the interim action decision is extracted from the ongoing RI/FS or from previous studies and an appropriate set of alternatives is evaluated. Few alternatives and in some cases only one should be developed for interim actions. A completed baseline risk assessment generally will not be available or necessary to justify an interim action. Qualitative risk information

should be organized that demonstrates that the action is necessary to stabilize the site, prevent further degradation, or achieve significant risk reduction quickly. Supporting data, including risk information, and the alternatives analysis can be documented in a focused feasibility study. However, in cases where the relevant data can be summarized briefly and the alternatives are few and straightforward, it may be adequate and more appropriate to document the supporting information in the proposed plan.

3.3 LIMITED FIELD INVESTIGATIONS

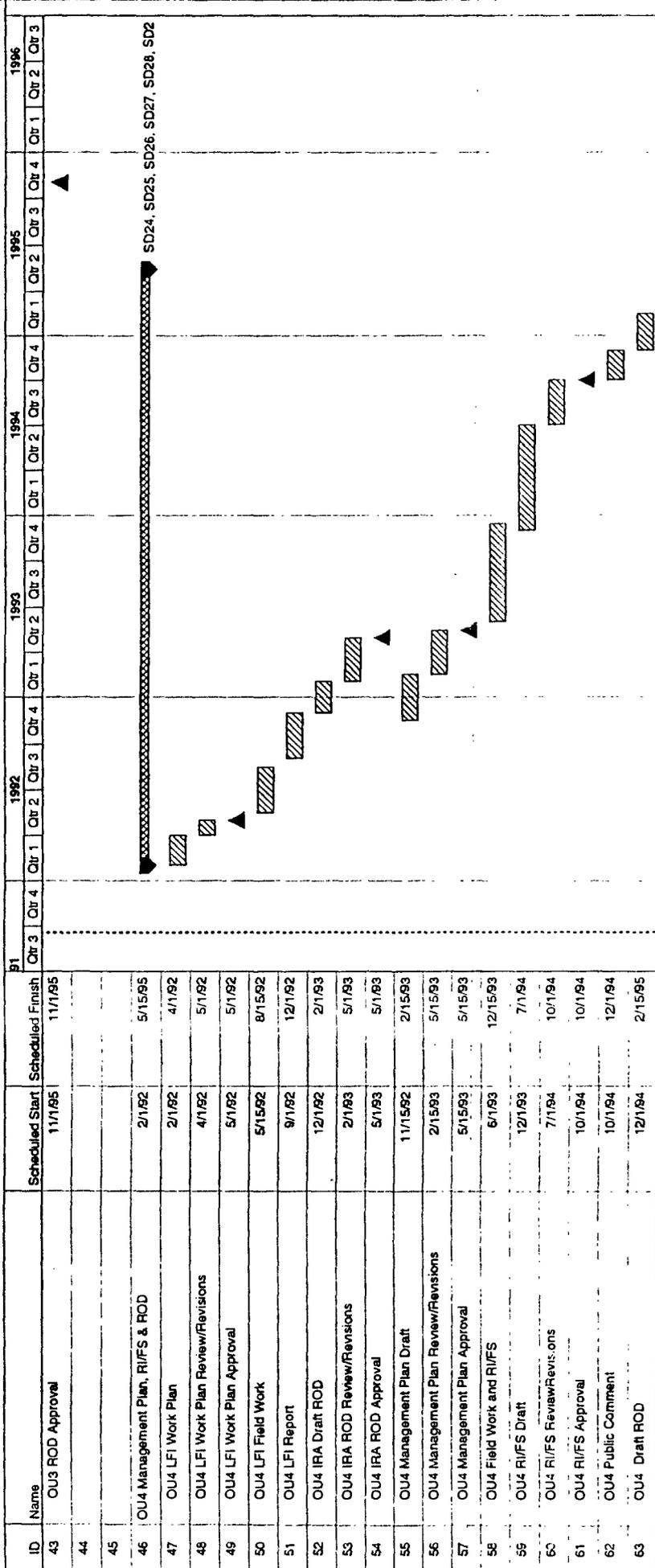
To better limit the scope of the OU 4 RI/FS at EAFB to investigations and studies of significant exposure pathways and identify potential additional interim action operable units, Limited Field Investigations (LFIs) will be conducted at the old spill/disposal sites to identify whether or not these sites pose an unacceptable risk to public health from soil ingestion, dust inhalation, future agricultural use and crop uptake or direct contact. The potential for these areas to represent a significant source to groundwater contamination will also be evaluated. Prior to performing LFI's a workplan will be developed identifying the Data Quality Objectives established based on the conceptual site model development. As the objectives of the LFI are to ascertain the potential risk to human health from shallow soil contamination and/or the risk to human health from groundwater contamination resulting from the leaching of contaminants from these areas, the scope of the study is significantly less than that of an RI/FS. A SAP consisting of a FSP and QAPP will also be submitted as part of the workplan. At completion of the LFI investigation, a LFI report which contains the findings of the investigation shall be submitted to the agencies for review and comment. A determination shall be made between the Project Managers to the disposition of each of the sources. Based on report results a decision will be reached between the Project Managers on what specific source areas in the OU require follow up action. The decision will be reflected in the administrative record.

3.4 QUARTERLY REPORTS

Quarterly reports will be prepared by the Air Force to describe the technical progress at the EAFB site. Quarterly reports will be submitted to U.S. EPA and ADEC as specified in the Agreement.

Documents that are not specified as primary or secondary documents in the Agreement, that will facilitate the implementation of the remedial process, may be submitted to EPA and ADEC as interim reports and technical memoranda for review, comment and/or discussion, upon agreement of all Project Managers. These documents are typically input or feeder documents, such as data interpretation, to the primary or secondary documents.

ELMENDORF AFB, AK
RI/F/S SCHEDULE
CH2M HILL



ID	Name	Scheduled Start	Scheduled Finish	1992	1993	1994	1995	1996			
				Qtr 1	Qtr 2	Qtr 3	Qtr 4	Qtr 1	Qtr 2	Qtr 3	Qtr 4
43	OU3 ROD Approval	11/1/95	11/1/95								
44											
45											
46	OU4 Management Plan, RI/F/S & ROD	2/1/92	5/15/95								
47	OU4 LFI Work Plan	2/1/92	4/1/92								
48	OU4 LFI Work Plan Review/Revisions	4/1/92	5/1/92								
49	OU4 LFI Work Plan Approval	5/1/92	5/1/92								
50	OU4 LFI Field Work	5/15/92	8/15/92								
51	OU4 LFI Report	9/1/92	12/1/92								
52	OU4 IRA Draft ROD	12/1/92	2/1/93								
53	OU4 IRA ROD Review/Revisions	2/1/93	5/1/93								
54	OU4 IRA ROD Approval	5/1/93	5/1/93								
55	OU4 Management Plan Draft	11/15/92	2/15/93								
56	OU4 Management Plan Review/Revisions	2/15/93	5/15/93								
57	OU4 Management Plan Approval	5/15/93	5/15/93								
58	OU4 Field Work and RI/F/S	6/1/93	12/15/93								
59	OU4 RI/F/S Draft	12/1/93	7/1/94								
60	OU4 RI/F/S Review/Revisions	7/1/94	10/1/94								
61	OU4 RI/F/S Approval	10/1/94	10/1/94								
62	OU4 Public Comment	10/1/94	12/1/94								
63	OU4 Draft ROD	12/1/94	2/15/95								

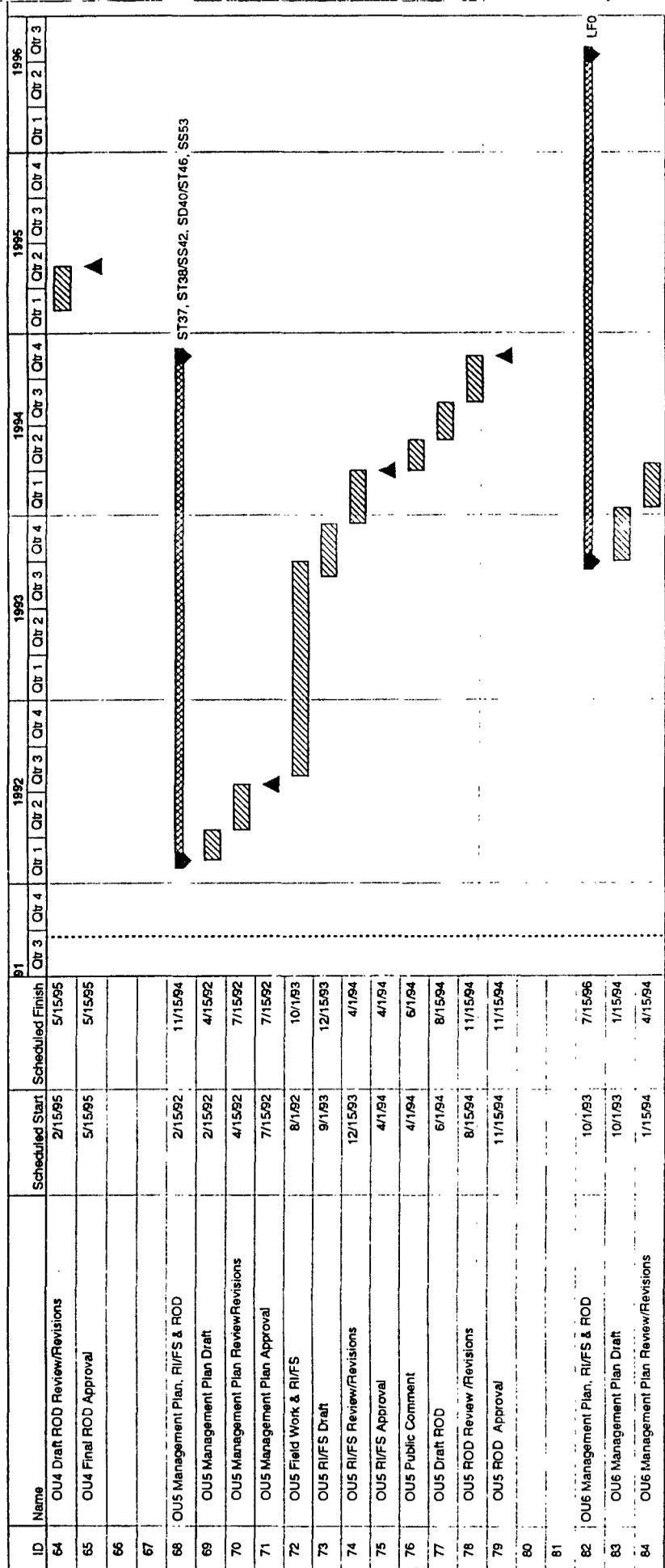
Project ANC31026.D6
Date: 9/16/91

Progress Milestone R/I/F/S

Critical Noncritical

018591

ELMENDORF AFB, AK
RI/FS SCHEDULE
CH2M HILL



Project: ANC31026.D6
Date: 9/16/91

TABLE 2
ELMENDORF AFB, ALASKA

POTENTIAL SOURCE AREAS

<u>Operable Units</u>	<u>Source Number</u>	<u>Source Description</u>
OU 1	LF05 (D-5) LF07 (D-7) LF13 (D-13) OT56 (NS-2) LF59	Sanitary Landfill Sanitary Landfill Disposal Site DRMO (DPDO) Scrap Pile Asphalt Seep
OU 2	ST41 (SP-5/5A) ST20 (S-5)	Four Million Gallon Hill Underground Waste Tank
OU 3	SD52 (NS-1) SD16 (D-17) SS21 (S-6)	Cherry Hill Ditch Shop Waste Disposal Site PCB Transformer Storage
OU 4	SD24 (IS-1) SD25 (IS-2) SD26 (IS-3) SD27 (IS-4) SD28 (IS-5) SD29 (IS-6) SD30 (IS-7) SD31 (IS-8) SS18 (S-1)	Building 42-400 Drains Building 42-425 Drains Building 42-550 Drains Building 42-300 Drains Building 42-410 Drains Building 43-450 Drains Building 21-900 Drains Building 32-060 Drains Pesticide Storage Building
OU 5	ST37 (SP-1) ST38/SS42 (SP-2/SP-6) SD40/ST46 (SP-4/SP-11) SS53 (NS-3)	Diesel Fuel Line Leak JP-4 Fuel Line Leak Diesel Fuel Spill RR Maintenance Area Oil Spill JP-4 Fuel Line Leak Golf Course Seep
OU 6	LF04 (D-4) WP14 (D-15) LF03 (D-3)	Bluff Landfill POL Sludge No. 1 Hospital Road Landfill
OU 7	FT23 (FT-1) SS10 (D-10) SD15 (D-16) SS19 (S-3)	Fire Training Area Asphalt Drum Storage POL Sludge No. 2 Old DDT Drum Storage

TABLE 3
PRIMARY AND SECONDARY
DOCUMENT DEADLINES

Operable Unit 1
PRIMARY DOCUMENTS

OU1 Management Plan	February 15, 1992
OU1 RI/FS	December 15, 1993
OU1 ROD	June 15, 1994
OU1 RD/RA Scope of Work	October 04, 1994
OU1 Remedial Action Plan	*
OU1 Remedial Design	*

SECONDARY DOCUMENTS

OU1 Health and Safety Plan
OU1 Remedial Investigation Report
OU1 Baseline Risk Assessment
OU1 Conceptual Site Model/Data Quality Objectives
OU1 ARARs Evaluation
OU1 Feasibility Study
OU1 Proposed Plan
OU1 Remedial Design, 35 %
OU1 Remedial Design, 60 %

* Determined in RD/RA Scope of Work in accordance with section 24.3 of the Federal Facility Agreement

Operable Unit 2
PRIMARY DOCUMENTS

OU2 IRA ROD	January 15, 1992
OU2 Management Plan	April 01, 1992
OU2 RI/FS	January 15, 1994
OU2 ROD	July 15, 1994
OU2 RD/RA Scope of Work	November 03, 1994
OU2 Remedial Design	*
OU2 Remedial Action Work Plan	*

SECONDARY DOCUMENTS

OU2 IRA Proposed Plan
OU2 Health and Safety Plan
OU2 Conceptual Site Model/Data Quality Objectives
OU2 ARARs Evaluation
OU2 Remedial Investigation Report
OU2 Baseline Risk Assessment
OU 2 Feasibility Study
OU2 Proposed Plan
OU2 Remedial Design, 35 %
OU2 Remedial Design, 60 %

* Determined in RD/RA Scope of Work in accordance with section 24.3 of the Federal Facility Agreement

Operable Unit 3
PRIMARY DOCUMENTS

OU3 Management Plan	May 01, 1993
OU3 RI/FS	February 01, 1995
OU3 ROD	August 01, 1995
OU3 RD/RA Scope of Work	November 20, 1995
OU3 Remedial Design	*
OU3 Remedial Action Work Plan	*

SECONDARY DOCUMENTS

OU3 Health and Safety Plan
OU3 Conceptual Site Model/Data Quality Objectives
OU3 ARARs Evaluation
OU3 Remedial Investigation Report
OU3 Baseline Risk Assessment
OU3 Feasibility Study
OU3 Proposed Plan
OU3 Remedial Design, 35 %
OU3 Remedial Design, 60 %

* Determined in RD/RA Scope of Work in accordance with section 24.3 of the Federal Facility Agreement

Operable Unit 4
PRIMARY DOCUMENTS

OU4 IRA ROD	February 01, 1993
OU4 Management Plan	February 15, 1993
OU4 RI/FS	July 01, 1994
OU4 ROD	February 15, 1995
OU4 RD/RA Scope of Work	June 06, 1995
OU4 Remedial Design	*
OU4 Remedial Action Work Plan	*

SECONDARY DOCUMENTS

OU4 LFI Work Plan
OU4 LFI Report
OU4 IRA Proposed Plan
OU4 Health and Safety Plan
OU4 Conceptual Site Model/Data Quality Objectives
OU4 ARARs Evaluation
OU4 Remedial Investigation Report
OU4 Baseline Risk Assessment
OU4 Feasibility Study
OU4 Proposed Plan
OU4 Remedial Design, 35 %
OU4 Remedial Design, 60 %

* Determined in RD/RA Scope of Work in accordance with section 24.3 of the Federal Facility Agreement

Operable Unit 5
PRIMARY DOCUMENTS

OU5 Management Plan	April 15, 1992
OU5 RI/FS	December 15, 1993
OU5 ROD	August 15, 1994
OU5 RD/RA Scope of Work	December 04, 1994
OU5 Remedial Design	*
OU5 Remedial Action Plan	*

SECONDARY DOCUMENTS

OU5 Health and Safety Plan
OU5 Conceptual Site Model/Data Quality Objectives
OU5 ARARs Evaluation
OU5 Remedial Investigation Report
OU5 Baseline Risk Assessment
OU5 Feasibility Study
OU5 Proposed Plan
OU5 Remedial Design, 35 %
OU5 Remedial Design, 60 %

* Determined in RD/RA Scope of Work in accordance with section 24.3 of the Federal Facility Agreement

Operable Unit 6
PRIMARY DOCUMENTS

OU6 Management Plan	January 15, 1994
OU6 RI/FS (includes Basewide)	September 01, 1995
OU6 ROD (includes Basewide)	May 15, 1996
OU6 RD/RA Scope of Work	September 03, 1996
OU6 Remedial Design	
OU6 Remedial Action Plan	

SECONDARY DOCUMENTS

OU6 Health and Safety Plan

OU6 Conceptual Site Model/Data Quality Objectives

OU6 ARARs Evaluation

OU6 Remedial Investigation Report

OU6 Baseline Risk Assessment

OU6 Feasibility Study

OU6 Proposed Plan

OU6 Remedial Design, 35 %

OU6 Remedial Design, 60 %

* Determined in RD/RA Scope of Work in accordance with section 24.3 of the Federal Facility Agreement

Operable Unit 7
PRIMARY DOCUMENTS

OU7 IRA ROD	April 01, 1993
OU7 Management Plan	October 01, 1993
OU7 RI/FS	March 15, 1995
OU7 ROD	November 15, 1995
OU7 RD/RA Scope of Work	March 05, 1996
OU7 Remedial Design	
OU7 Remedial Action Plan	

SECONDARY DOCUMENTS

- OU7 IRA Proposed Plan
- OU7 Health and Safety Plan
- OU7 Conceptual Site Model/Data Quality Objectives
- OU7 ARARs Evaluation
- OU7 Remedial Investigation Report
- OU7 Baseline Risk Assessment
- OU7 Feasibility Study
- OU7 Proposed Plan
- OU7 Remedial Design, 35 %
- OU7 Remedial Design, 60 %

* Determined in RD/RA Scope of Work in accordance with section 24.3 of the Federal Facility Agreement

Basewide Remedial Activities

PRIMARY DOCUMENTS

Basewide Investigation Work Plan

November 15, 1991

Community Relations Plan

November 01, 1991

SECONDARY DOCUMENTS

Basewide Background Sampling Plan

Basewide Ecological Survey

ATTACHMENT D



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10
1200 Sixth Avenue
Seattle, Washington 98101

December 20, 1994

Reply To
Attn Of: SO-155

Thomas P. Cook
Chief, Civil Law
Office of the Staff Judge Advocate
600 Richardson Drive; #5000
Attn: APVR-FR-JA
Fort Richardson, Alaska 99505-5000

RECEIVED

DEC 20 1994

DEPARTMENT OF
ENVIRONMENTAL CONSERVATION

Breck Tostevin
Assistant Attorney General, State of Alaska
1031 West Fourth Avenue
Suite 200
Anchorage, Alaska 99501

Re: Federal Facility Agreement for Fort Richardson, Alaska

Dear Messrs. Cook and Tostevin:

Enclosed with this letter are the final, conformed copies of the Fort Richardson Federal Facility Agreement (FFA). The original FFA has been filed with the EPA Region 10 Regional Hearing Clerk. Also attached to the FFA are the Scope of Work, source area table, and operable unit and community relations schedules.

Thank you for all of your time and effort in seeing this document through negotiations and final concurrence. EPA looks forward to a continuing cooperative relationship as the response actions continue at Fort Richardson. If you have any questions, please call me at (206) 553-1744.

RECEIVED

Department of

DEC 23 1994

Office of the Attorney General
Anchorage Branch
Anchorage, Alaska

Sincerely,

Dean B. Ingemansen
Assistant Regional Counsel

Enclosures

RECEIVED
 94 DEC 15 AM 10:36
 HEARINGS CLERK
 EPA--REGION 10

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, REGION 10
 AND THE
 ALASKA DEPARTMENT OF ENVIRONMENTAL CONSERVATION
 AND THE
 UNITED STATES DEPARTMENT OF THE ARMY

IN THE MATTER OF:)
) FEDERAL FACILITY AGREEMENT
 U.S. Department of the Army) UNDER CERCLA SECTION 120
 Fort Richardson)
) Administrative Docket Number:
 Anchorage, Alaska) 1093-05-02-120

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18 ATTACHMENT 1

19

20 Based on the information available to the Parties on the

21 effective date of this Federal Facility Agreement ("Agreement"),

22 and without trial or adjudication of any issues of fact or law, the

23 Parties agree as follows:

1 I. JURISDICTION

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

4 1.1 The United States Environmental Protection
5 Agency ("U.S. EPA"), Region 10, enters into those portions of this
6 Agreement that relate to the Remedial Investigation/Feasibility
7 Study ("RI/FS") pursuant to Section 120(e)(1) of the Comprehensive
8 Environmental Response, Compensation, and Liability Act ("CERCLA"),
9 42 U.S.C. § 9620(e)(1), as amended by the Superfund Amendments and
10 Reauthorization Act of 1986 ("SARA"), Pub. L. 99-499 (hereinafter
11 jointly referred to as "CERCLA"); Sections 3004(u) and (v),
12 3008(h), and 6001 of the Resource Conservation and Recovery Act
13 ("RCRA"), 42 U.S.C. §§ 6924(u) and (v), 6928(h), and 6961, as
14 amended by the Hazardous and Solid Waste Amendments of 1984
15 ("HSWA") (hereinafter jointly referred to as "RCRA"); and Executive
16 Order 12580;

17 1.2 U.S. EPA, Region 10, enters into those
18 portions of this Agreement that relate to interim actions and final
19 remedial actions pursuant to Section 120(e)(2) of CERCLA, 42 U.S.C.
20 § 9620(e)(2); Sections 3004(u) and (v), 3008(h), and 6001 of RCRA,
21 42 U.S.C. §§ 6924(u) and (v), 6928(h), and 6961; and Executive
22 Order 12580;

23 1.3 The Army enters into those portions of this
24 Agreement that relate to the RI/FS pursuant to Section 120(e)(1) of
25 CERCLA, 42 U.S.C. § 9620(e)(1); Sections 3004(u) and (v), 3008(h),
26 and 6001 of RCRA, 42 U.S.C. §§ 6924(u) and (v), 6928, and 6961;

1 Executive Order 12580; the National Environmental Policy Act,
2 42 U.S.C. § 4321, and the Defense Environmental Restoration Program
3 ("DERP"), 10 U.S.C. § 2701 et seq.;

4 1.4 The Army enters into those portions of this
5 Agreement that relate to interim actions and final remedial actions
6 pursuant to Section 120(e)(2) of CERCLA, 42 U.S.C. § 9620(e)(2);
7 Sections 3004(u) and (v), 3008(h), and 6001 of RCRA, 42 U.S.C.
8 §§ 6924(u) and (v), 6928(h), and 6961; Executive Order 12580; and
9 the DERP.

10 1.5 The State of Alaska Department of
11 Environmental Conservation ("ADEC") enters into this Agreement
12 pursuant to Sections 107, 120(e), 120(f), and 121(f) of CERCLA,
13 42 U.S.C. §§ 9607, 9620(e), 9620(f), and 9621(f); Alaska Statutes
14 46.03, 46.04, 46.08, 46.09; and 18 Alaska Administrative Code
15 ("AAC") 60, 18 AAC 62, 18 AAC 70, 18 AAC 75, 18 AAC 78, and
16 18 AAC 80.

17 II. DEFINITIONS

18 2.1 The terms used in this Agreement shall have
19 the same meaning as defined in Section 101 of CERCLA, 42 U.S.C.
20 § 9601; the NCP, 40 CFR 300.5; and Section 1004 of RCRA, 42 U.S.C.
21 § 6903. In addition:

22 (a) "ADEC" shall mean the State of Alaska as
23 represented by the Department of Environmental Conservation, its
24 employees, agents, and authorized representatives;

25 (b) "Agreement" shall mean this document and shall
26 include all Attachments to this document. All such Attachments

1 shall be incorporated by reference and are an integral and
2 enforceable part of this document;

3 (c) "ARAR" or "Applicable or Relevant and
4 Appropriate Requirement" shall mean any standard, requirement,
5 criterion, or limitation as provided in Section 121(d)(2) of
6 CERCLA, 42 U.S.C. § 9621(d)(2), and the NCP;

7 (d) "Authorized representative" may include a
8 designated contractor or any other designee;

9 (e) "CERCLA" shall mean the Comprehensive
10 Environmental Response, Compensation, and Liability Act of 1980,
11 42 U.S.C. § 9601 et seq., as amended by the Superfund Amendments
12 and Reauthorization Act of 1986 ("SARA"), Pub. L. 99-499;

13 (f) "Critical Path Method" or "CPM" shall mean the
14 methodology that uses certain techniques to represent multiple
15 relationships between stages in a complicated project undertaken
16 pursuant to this Agreement. This methodology shows the precedence
17 relationships between the various activities specified in a given
18 project and can be used to control and monitor the progress, cost
19 and resources of a project. This methodology also identifies the
20 most critical activities in the project.

21 (g) "Days" shall mean calendar days, unless
22 otherwise specified. Any submittal that under the terms of this
23 Agreement would be due on a Saturday, Sunday, or federal or state
24 holiday shall be due on the following business day;

25 (h) "Interim Remedial Actions" or "IRAs" are
26 discussed in the Preamble to 40 CFR 300.430(a)(1), 55 Fed. Reg.

1 8703-8706 (March 8, 1990), and shall mean all discrete actions
2 implemented under remedial authority that are taken to prevent or
3 minimize the release of hazardous substances, pollutants, or
4 contaminants so that they do not endanger human health or the
5 environment. Interim actions shall neither be inconsistent with
6 nor preclude implementation of the final expected Site remedy and
7 shall be undertaken in accordance with the NCP, 40 CFR Part 300, as
8 amended, and with the requirements of CERCLA;

9 (i) "Army" shall mean the United States Army and,
10 to the extent necessary to effectuate the terms of this Agreement
11 (including appropriations and congressional reporting
12 requirements), its employees, agents, successors, assigns, and
13 authorized representatives;

14 (j) "NCP" shall mean the National Oil and
15 Hazardous Substances Pollution Contingency Plan, 40 CFR Part 300,
16 as amended;

17 (k) "Operable Unit" or "OU" means a discrete
18 action that comprises an incremental step toward comprehensively
19 addressing Site problems. This discrete portion of a remedial
20 response manages migration, or eliminates or mitigates a release,
21 threat of a release, or pathway of exposure. The cleanup of a site
22 can be divided into a number of operable units, depending on the
23 complexity of the problems associated with the site. Operable
24 units may address geographical portions of a site, specific site
25 problems, or initial phases of an action, or may consist of any set

1 of actions performed over time or any actions that are concurrent
2 but located in different parts of a site;

3 (l) "Paragraph" shall mean a numbered paragraph of
4 this Agreement, designated by an Arabic numeral;

5 (m) "Part" shall mean one of the thirty-seven (37)
6 subdivisions of this Agreement, designated by a Roman numeral;

7 (n) "Parties" shall mean the Army, U.S. EPA, and
8 ADEC;

9 (o) "Preliminary Source Evaluation" and
10 "Preliminary Source Evaluation Report" ("PSE") shall mean the
11 process (and resulting documentation) of evaluating releases or
12 threatened releases of hazardous substances, pollutants, or
13 contaminants from source areas with the potential to constitute a
14 threat to public health, welfare, or the environment. A
15 Preliminary Source Evaluation as described in Attachment I, may
16 consist of two phases: an existing data evaluation (PSE 1) and/or
17 a limited field investigation (PSE 2).

18 (p) "RCRA" shall mean the Resource Conservation
19 and Recovery Act, 42 U.S.C. § 6901 et seq., as amended by the
20 Hazardous and Solid Waste Amendments of 1984 ("HSWA"), Pub. L.
21 98-616;

22 (q) "Record of Decision" or "ROD" is discussed at
23 40 CFR 300.430 and shall mean the document that summarizes the
24 selection of an interim remedial action or a final remedial action,
25 and all facts, analyses of facts, and source-specific policy
26

1 determinations considered in the course of carrying out activities
2 at the Site;

3 (r) "Remedial Investigation/Feasibility Study
4 Management Plan" shall mean a comprehensive document describing all
5 activities planned within the RI and the FS process to include the
6 Work Plan, Field Sampling Plan ("FSP"), Quality Assurance Project
7 Plan ("QAPP"), Health and Safety Plan ("HSP"), and the Community
8 Relations Plan ("CRP");

9 (s) "Removal" is defined by Section 311(a)(8) of
10 the Clean Water Act ("CWA"), 33 U.S.C. 1321(a)(8), and shall mean
11 the removal of oil or hazardous substances from the water and
12 shorelines or the taking of such other actions as may be necessary
13 to minimize or mitigate damage to the public health, welfare, or to
14 the environment. As defined by Section 101(23) of CERCLA,
15 42 U.S.C. § 9601(23), removal shall mean the cleanup or removal of
16 released hazardous substances from the environment; such actions as
17 may be necessary in the event of the threat of release of hazardous
18 substances into the environment; such actions as may be necessary
19 to monitor, assess, and evaluate the release or threat of release
20 of hazardous substances; the disposal of removed material; or the
21 taking of such other actions as may be necessary to prevent,
22 minimize, or mitigate damage to the public health or welfare or to
23 the environment that may otherwise result from a release or threat
24 of release. The term includes, in addition, without being limited
25 to, security fencing or other measures to limit access, provision
26 of alternative water supplies, temporary evacuation and housing of

1 threatened individuals not otherwise provided for, action taken
2 under Section 104(b) of CERCLA, 42 U.S.C. § 9604(b), post-removal
3 site control, where appropriate, and any emergency assistance that
4 may be provided under the Disaster Relief Act of 1974. For the
5 purpose of the NCP, the term also includes enforcement activities
6 related thereto;

7 (t) "Scope of Work" shall mean the planning
8 document prepared by the Army, in consultation with U.S. EPA and
9 ADEC, and in accordance with OSWER Directive 9835.8 that identifies
10 the source-specific objectives and general management approach for
11 the RI/FS process for the Site and/or operable unit(s);

12 (u) "Site" shall mean the physical boundaries of
13 Fort Richardson facility, which occupies approximately 61,900 acres
14 near Anchorage, Alaska. The Site includes other area(s)
15 contaminated by the migration of hazardous substances, pollutants,
16 contaminants, or constituents from sources at Fort Richardson;

17 (v) "Statement of Work" shall mean the detailed
18 elaboration of the Scope of Work that defines the requirements for
19 developing a management plan;

20 (w) "U.S. EPA" shall mean the United States
21 Environmental Protection Agency, including Region 10, its
22 employees, agents, and authorized representatives; and

23 (x) "Work Plan" shall mean the RI/FS or RA Work
24 Plan that is to be prepared in accordance with Office of Solid
25 Waste and Emergency Response ("OSWER") Directives 9355.3-01
26 (October 1988) and 9355.0-4A (June 1986), and the NCP.

1
2 III. PURPOSE

3 3.1 The general purposes of this Agreement are to:

4 (a) Ensure that the environmental impacts associated
5 with past and present activities at the Site are thoroughly
6 investigated and that appropriate removal and/or remedial action(s)
7 is/are taken as necessary to protect the public health, welfare,
8 and the environment;9 (b) Establish a procedural framework and schedule for
10 developing, implementing, and monitoring appropriate response
11 actions at the Site in accordance with CERCLA, the NCP, national
12 Superfund guidance and policy, RCRA, national RCRA guidance and
13 policy, and applicable state law; and,14 (c) Facilitate cooperation, exchange of information,
15 and participation of the Parties in such actions.16 3.2 Specifically, the purposes of this Agreement are
17 to:18 (a) Investigate historical information about the Site
19 in order to identify those sources of contamination that can be
20 addressed under this Agreement;21 (b) Identify removal and Interim Remedial Actions
22 ("IRA") alternatives that are appropriate at the Site prior to the
23 implementation of final remedial action(s) for the Site. IRA
24 alternatives shall be identified and proposed to the Parties as
25 early as possible prior to formal proposal of IRA(s) to U.S. EPA
26 and ADEC pursuant to CERCLA and applicable state law. This process

1 is designed to promote cooperation among the Parties in identifying
2 IRA alternatives prior to selection of final IRA(s);

3 (c) Establish requirements for the performance of a
4 Remedial Investigation ("RI") to determine fully the nature and
5 extent of the threat to the public health or welfare or the
6 environment caused by the release or threatened release of
7 hazardous substances, pollutants, or contaminants at the Site, and
8 to establish requirements for the performance of an FS for the Site
9 to identify, evaluate, and select alternatives for the appropriate
10 remedial action(s) to prevent, mitigate, or abate the release or
11 threatened release of hazardous substances, pollutants, or
12 contaminants at the Site in accordance with CERCLA and applicable
13 state law;

14 (d) Identify the nature, objective, and schedule of
15 response actions to be taken at the Site. Response actions at the
16 Site shall attain that degree of cleanup of hazardous substances,
17 pollutants, or contaminants mandated by CERCLA and applicable state
18 law;

19 (e) Implement the selected interim and final remedial
20 action(s) in accordance with CERCLA and applicable state law, and
21 meet the requirements of Section 120(e)(2) of CERCLA, 42 U.S.C.
22 § 9620(e)(2), for an interagency agreement among the Parties;

23 (f) Assure compliance, through this Agreement, with
24 RCRA and other federal and state hazardous waste laws and
25 regulations for matters covered herein;

26
27

1 (g) Coordinate response actions at the Site with the
2 mission and support activities at Fort Richardson;

3 (h) Expedite the cleanup process to the extent
4 consistent with protection of human health and the environment;

5 (i) Provide for ADEC involvement in the initiation,
6 development, selection, and enforcement of remedial actions to be
7 undertaken at Fort Richardson, including the review of all
8 applicable data as it becomes available, and the development of
9 studies, reports, and actions plans; and to identify and integrate
10 state ARARs into the remedial action process; and

11 (j) Provide for operation and maintenance of any
12 remedial action selected and implemented pursuant to this
13 Agreement.

14 IV. PARTIES BOUND

15 4.1 This Agreement shall apply to and be binding
16 upon the Army, U.S. EPA, and ADEC. This Agreement shall also apply
17 to subsequent owners and operators of any portion of the Site. The
18 Army agrees to include notice of this Agreement in any document
19 transferring ownership of property owned by the United States to
20 any subsequent owners and operators of any portion of the site in
21 accordance with Section 120(h) of CERCLA, 42 U.S.C. § 9620(h),
22 40 CFR §§ 264.119 and 264.120, and Part XXXII of this Agreement.
23 The requirement for such notice shall apply to real property sold
24 or transferred between agencies of the United States, between the
25 United States and private Parties, and between the United States
26 and state and local governments.

1 4.2 The Army will notify U.S. EPA and ADEC of the
2 identity of its contractors and subcontractors performing work
3 under this Agreement. The Army shall provide copies of this
4 Agreement to all contractors and subcontractors performing work
5 under this Agreement. The Army shall ensure that all contractors
6 and subcontractors performing work under this agreement have
7 sufficient experience to deal with the relevant remedial activities
8 at the Site.

9 4.3 Each undersigned representative of a Party
10 certifies that he or she is fully authorized to enter into the
11 terms and conditions of this Agreement and to legally bind such
12 Party to this Agreement.

13 V. RCRA-CERCLA INTEGRATION

14 5.1 The Parties intend to integrate the Army's
15 CERCLA response obligations and RCRA corrective action obligations
16 that relate to the release(s) of hazardous substances, hazardous
17 wastes, hazardous constituents, pollutants, or contaminants covered
18 by this Agreement into this comprehensive Agreement. Therefore,
19 the Parties intend that activities covered by this Agreement will
20 achieve compliance with CERCLA, 42 U.S.C. § 9601 et seq.; satisfy
21 the corrective action requirements of Sections 3004(u) and (v) of
22 RCRA, 42 U.S.C. § 6924(u) and (v), for a RCRA permit, and Section
23 3008(h), 42 U.S.C. § 6928(h), for interim status facilities; and
24 meet or exceed all applicable or relevant and appropriate federal
25 and state laws and regulations, to the extent required by Section
26 121 of CERCLA, 42 U.S.C. § 9621, and applicable state law.

1 5.2 Based upon the foregoing, the Parties intend
2 that any remedial action selected, implemented, and completed under
3 this Agreement will be protective of human health and the
4 environment such that remediation of releases covered by this
5 Agreement shall obviate the need for further corrective action
6 under RCRA (i.e., no further corrective action shall be required).
7 The Parties agree that with respect to releases of hazardous waste
8 or hazardous constituents covered by this Agreement, RCRA shall be
9 considered an ARAR pursuant to Section 121 of CERCLA, 42 U.S.C.
10 § 9621. Releases or other hazardous waste activities not covered
11 by this Agreement remain subject to all applicable state and
12 federal environmental requirements.

13 5.3 The Parties recognize that the requirement to
14 obtain permits for response actions undertaken pursuant to this
15 Agreement shall be as provided for in CERCLA and the NCP. The
16 Parties further recognize that ongoing hazardous waste management
17 activities at Fort Richardson may require the issuance of permits
18 under federal and state laws. This Agreement does not affect the
19 requirements, if any, to obtain such permits. However, if a permit
20 is issued to the Army for ongoing hazardous waste management
21 activities at the Site, U.S. EPA or ADRC shall reference and
22 incorporate any appropriate provisions, including appropriate
23 schedules (and the provision for extension of such schedules), of
24 this Agreement into such permit. With respect to those portions of
25 this Agreement incorporated by reference into permits, the Parties
26 intend that judicial review of the incorporated portions shall, to

1 the extent authorized by law, be reviewed only under the provisions
2 of CERCLA.

3 5.4. Nothing in this Agreement shall alter any
4 Party's rights with respect to removal actions conducted pursuant
5 to Section 104 of CERCLA, 42 U.S.C. § 9604. Any removal actions
6 conducted at the Site shall be conducted in a manner consistent
7 with this Agreement, CERCLA, the NCP, and Executive Order 12580.

8
9 VI. FINDINGS OF FACT

10 6.1 For purposes of this Agreement, the following
11 constitutes a summary of the facts upon which this Agreement is
12 based. None of the facts related herein are admissions nor are
13 they legally binding upon any Party with respect to any unrelated
14 claims of persons not a Party to this Agreement.

15 6.2 Fort Richardson encompasses approximately
16 25,000 acres near Anchorage, Alaska. Included in this is an
17 ordinance impact area, an airfield, a manoeuver area, a cantonement
18 area, and housing for Fort Richardson personnel.

19 6.3 Major sources of contamination at Fort
20 Richardson include areas of white phosphorus at Eagle River Flats,
21 PCB contamination at the Roosevelt Road transmitter site, volatile
22 organic compounds at the Poleline Road disposal area, and the fire
23 training pits.

24 6.4 Fort Richardson was proposed for inclusion on
25 the CERCLA National Priorities List ("NPL") in June 1993. 58 Fed.
26 Reg. 34018 (June 23, 1993).

6.5 The Parties enter this Agreement with the expectation that Fort Richardson will list final on the NPL. Upon final listing, the Project Managers shall, in writing, modify Paragraph 6.4 of this Agreement to include the appropriate Federal Registry citation. If Fort Richardson fails to list final on the NPL, any Party may void this Agreement by providing written notice to the other Parties.

VII. REGULATORY DETERMINATIONS

7.1 For purposes of this Agreement, the following constitutes a summary of the Regulatory Determinations upon which this Agreement is based. None of the Regulatory Determinations related herein are admissions nor are they legally binding upon any Party with respect to any unrelated claims of person(s) not a Party to this Agreement.

7.2 Fort Richardson, collectively, is a Site within the meaning of Section 101(9) of CERCLA, 42 U.S.C. § 9601(9);

7.3 Hazardous substances, pollutants, or contaminants within the meaning of Sections 101(14) and 104(a)(2) of CERCLA, 42 U.S.C. §§ 9601(14) and 9604(a)(2), have been disposed of at the Site;

7.4 There have been releases of hazardous substances, pollutants, or contaminants into the environment within the meaning of Sections 101(22), 104, 106, and 107 of CERCLA, 42 U.S.C. §§ 9601(22), 9604, 9606, and 9607, at and from the Site;

1 7.5 With respect to those releases, the Army is an
2 owner and/or operator within the meaning of Section 107 of CERCLA,
3 42 U.S.C. § 9607;

4 7.6 The actions to be taken pursuant to this
5 Agreement are reasonable and necessary to protect human health and
6 the environment; and

7 7.7 A reasonable time for beginning and/or
8 completing the actions has been, or will be, provided.

9
10 VIII. SCOPE OF AGREEMENT

11 A. Work to be Performed

12 8.1 The Parties intend that work done and data
13 generated prior to the effective date of this Agreement be retained
14 and utilized to the maximum extent technically feasible in
15 accordance with applicable law.

16 8.2 The Army will conduct and finance the cost of
17 each RI/FS or other consultant studies in accordance with each
18 RI/FS Management Plan or Work Plan and implement the RD/RA at the
19 Site in accordance with the appropriate RD and the RA Work Plan,
20 and all relevant statutes and regulations.

21 8.3 All work performed pursuant to this Agreement
22 shall be under the direction and supervision, or in consultation
23 with, a qualified engineer, geologist, or equivalent expert with
24 expertise in hazardous substances remedial investigation and/or
25 remediation.

1 8.4 The Army shall perform the tasks and submit
2 plans, reports, and other documents as required by the Plans.

3 8.5 These matters are set forth in more detail
4 below and in the subsequent RI/FS Management Plans, PSE Work Plans,
5 and RA Work Plans. This Agreement fully incorporates the
6 provisions of these Plans that relate to the implementation of this
7 Agreement, including, but not limited to, definitions and
8 procedures for submission, review, and approval of documents. In
9 the event of any inconsistency between this Agreement and the
10 Plans, this Agreement shall govern unless and until duly amended
11 pursuant to Part XXXIII of this Agreement.

12 B. Preliminary Source Evaluation

13 8.6 The Army shall evaluate known and potential
14 sources of contamination under the PSE process pursuant to
15 Attachment I.

16 C. Interim Remedial Actions

17 8.7 The Army shall, where appropriate, develop and
18 implement Interim Remedial Actions ("IRAs"). The IRA(s) shall be
19 consistent with the purposes set forth in Part III of this
20 Agreement.

21 D. Remedial Investigations

22 8.8 The Army shall develop, implement, and report
23 upon remedial investigations of the Site. These investigations
24 shall comply with applicable requirements of CERCLA; the NCP; and,
25 to the extent set forth in this Agreement, pertinent written
26 national guidance and U.S. EPA national policy.

1 E. Feasibility Studies

2 8.9 The Army shall design, propose, undertake, and
3 report upon feasibility studies for the Site. These studies shall
4 comply with applicable requirements of CERCLA; the NCP; and, to the
5 extent set forth in this Agreement, pertinent written national
6 guidance and U.S. EPA national policy.

7
8 F. Remedial Actions

9 8.10 The Army shall develop and submit its proposed
10 RA alternative. ADEC may recommend to U.S. EPA the RA alternative
11 it deems appropriate. U.S. EPA and the Army, in consultation with
12 ADEC, shall make final selection of the RA(s) for each OU. In the
13 event of disagreement, U.S. EPA shall make final selection of the
14 RA(s). The selection of RA(s) by the U.S. EPA Regional
15 Administrator shall be final, subject to Part XXXVI.

16
17 G. Technical Review Committee

18 8.11 Pursuant to 10 U.S.C. § 2705(c), the Army
19 shall establish a technical review committee ("TRC") and, in
20 consultation with the Parties, shall provide for representatives
21 from the following organizations to serve as members of the TRC:

- 22 a. A representative from the Army;
23 b. A representative from the ADEC;
24 c. A representative from the U.S. EPA;
25 d. A representative from the municipality of
26 Anchorage; and

1 e. Other designated representatives from the local
2 communities, such as the Eagle River community
3 council and other such representatives.

4 8.12 The purpose of the TRC is to afford a forum
5 for cooperation between the Army and concerned local officials and
6 citizens and to provide a meaningful opportunity for the members of
7 the TRC to become informed and to express their opinion about
8 significant aspects of the RI/FS or the RD/RA process.

9 8.13 The Army Base Commander or delegate shall
10 serve as the Chair of the TRC meetings. The Chair shall schedule
11 regular meetings of the TRC as necessary and appropriate. Regular
12 meetings of the TRC shall be for the purpose of reviewing progress
13 under the RI/FS or the RD/RA and discussing other matters of
14 interest to the TRC. Special meetings of the TRC may be held at
15 the request of members.

16 H. Compliance with the Off-Site Rule

17 8.14 Any hazardous substance, pollutant or
18 contaminant transferred or otherwise managed off-site as a result
19 of this Agreement must be taken to a facility acceptable under U.S.
20 EPA's Off-Site Rule (58 Fed. Reg. 49200) (September 22, 1993),
21 codified at 40 C.F.R. § 300.440, in accordance with Section
22 121(d)(3) of CERCLA, as amended, 42 U.S.C. § 9621(d)(3).

23 IX. PROJECT MANAGERS

24 9.1 U.S. EPA, ADEC, and the Army shall each
25 designate a Project Manager and Alternate (hereinafter jointly
26 referred to as Project Manager) for the purpose of overseeing the

1 implementation of this Agreement. Within five (5) days of the
2 effective date of this Agreement, each Party shall notify the other
3 Parties of the name and address of its Project Manager. Any Party
4 may change its designated Project Manager by notifying the other
5 Parties, in writing, within five (5) days of the change.
6 Communications between the Parties concerning the terms and
7 conditions of this Agreement shall be directed through the Project
8 Managers as set forth in Part XIV of this Agreement. Each Project
9 Manager shall be responsible for assuring that all communications
10 from the other Project Managers are appropriately disseminated and
11 processed by their respective Agencies.

12 9.2 Project Managers shall have the authority to:
13 (1) take samples, request split samples, and ensure that work is
14 performed properly and in accordance with the terms of any final
15 Management Plan; (2) observe all activities performed pursuant to
16 this Agreement, take photographs, and make such other reports on
17 the progress of the work as the Project Managers deem appropriate;
18 (3) review records, files, and documents relevant to this
19 Agreement; (4) recommend and request minor field modifications to
20 the work to be performed pursuant to the Agreement, or in
21 techniques, procedures, or designs utilized in carrying out this
22 Agreement; (5) exercise the authorities granted to them in this
23 Part, and the NCP; and (6) act in accordance with Paragraph 33.1
24 (Modification/Amendment of Agreement).

25 9.3 Each Project Manager shall be, or rely on, a
26 qualified and competent person with experience in hazardous

1 substances site investigations and remedial actions and having the
2 skills necessary to implement this Agreement.

3 9.4 The Project Managers may, in accordance with
4 Part XX(J) of this Agreement, make minor field modifications to the
5 work to be performed pursuant to this Agreement, or in techniques,
6 procedures, or designs utilized in carrying out this Agreement,
7 including approval of the addition or redefinition of operable
8 units/hazardous waste areas, without resort to Part XXXIII of this
9 Agreement. Any such modification proposed by any Party pursuant to
10 this Part must be approved orally by all Parties' Project Managers
11 to be effective. The Army Project Manager shall make a
12 contemporaneous record of such modification and approval in a
13 written log, and a summary of the log entry will be included in the
14 next progress report. Even after approval of the proposed
15 modification, no Project Manager will require implementation by a
16 government contractor without approval of the appropriate
17 Government Contracting Officer.

18 9.5 The Project Manager for the Army shall be
19 responsible for day-to-day field activities at the Site, and shall
20 have all the authority vested in the On-Scene Coordinator and
21 Remedial Project Manager by the NCP, 40 C.F.R. Part 300. The
22 Project Manager for the Army shall be physically present at the
23 Site, or reasonably available to supervise work, during all hours
24 of work performed at the Site pursuant to this Agreement.

25 9.6 The Project Managers shall be reasonably
26 available to consult on work performed pursuant to this Agreement

1 and shall make themselves available to each other for the pendency
2 of this Agreement. The absence of the Army, U.S. EPA, or ADEC
3 Project Managers from the Site shall not be cause for work stoppage
4 or delay.

5 9.7 The Project Managers may decide to address a
6 source area identified in Attachment I within the scope of a Two
7 Party Agreement between the State of Alaska and the Army. In such
8 a case, and upon unanimous written agreement of the Army, U.S. EPA,
9 and ADEC Project Managers, the agreed upon activities at the source
10 area may commence pursuant to the Two Party Agreement. Such source
11 areas will remain within the scope of this Agreement to the extent
12 established in Part 3.5 of Attachment I.

13
14 X. ACCESS

15 10.1 Without limitation on any authority conferred
16 on them by law, U.S. EPA, ADEC, and/or their authorized
17 representatives, shall have authority to enter the Site at all
18 reasonable times for the purposes of, among other things:
19 (1) inspecting records, operating logs, contracts, and other
20 documents relevant to implementation of this Agreement;
21 (2) reviewing the progress of the Army, its response action
22 contractors, or agents in implementing this Agreement;
23 (3) conducting such tests as ADEC and U.S. EPA Project Managers
24 deem necessary; and (4) verifying the data submitted to U.S. EPA
25 and ADEC by the Army. The Army shall honor all requests for such
26 access by U.S. EPA and ADEC, subject only to any statutory or

1 regulatory requirement as may be necessary to protect national
2 security or mission-essential activities.

3 10.2 The Army shall provide an escort whenever U.S.
4 EPA or ADEC require access to areas designated as restricted in
5 accordance with relevant Army Policy. U.S. EPA and ADEC will seek
6 permission from this escort prior to using any camera, sound
7 recording, or other recording device in such restricted areas. The
8 Parties agree that the provision of an escort will not unreasonably
9 delay access or unreasonably restrict use of recording devices. To
10 the extent possible, U.S. EPA and ADEC shall provide reasonable
11 notice to the Army Project Manager to request necessary escorts.

12 10.3 All Parties with access to the Site pursuant
13 to this Part shall comply with all applicable health and safety
14 plans.

15 10.4 The Army shall promptly provide EPA or ADEC
16 with a full verbal explanation of the reason(s) for denying any
17 access requested by either U.S. EPA or ADEC. In addition, the Army
18 shall, within two days, provide a written explanation of the
19 reason(s) for the denial to the Project Managers, including
20 reference to the applicable regulations, and, upon request, a copy
21 of such regulations. The Army shall, as expeditiously as possible,
22 make alternative arrangements for accommodating the requested
23 access. The Army shall not restrict the access rights of U.S. EPA
24 or ADEC to any greater extent than the Army restricts the access
25 rights of its contractors performing work pursuant to this
26 Agreement.

1 10.5 To the extent that this Agreement requires
2 access to property not owned and controlled by the Army, the Army
3 shall exercise its authorities to obtain access pursuant to Section
4 104(e) of CERCLA, 42 U.S.C. § 9604(e), and will use its best
5 efforts to obtain signed access agreements for itself, its
6 contractors, agents, U.S. EPA, and ADEC, and provide U.S. EPA and
7 ADEC with copies of such agreements. The Army may request the
8 assistance of ADEC in obtaining such access, and, upon such
9 request, ADEC will use their best efforts to obtain the required
10 access. With respect to the non-Army property upon which
11 monitoring wells, pumping wells, treatment facilities, or other
12 response actions are to be located, the access agreements should
13 provide that no conveyance of title, easement, or other interest in
14 the property shall be consummated without provisions for the
15 continued operation of such wells, treatment facilities, or other
16 response actions on the property. The access agreements should
17 also provide to the extent practicable that the owners of any
18 property where monitoring wells, pumping wells, treatment
19 facilities, or other response actions are located shall notify the
20 Army, ADEC, and the U.S. EPA by certified mail, at least thirty
21 (30) days prior to any conveyance, of the property owner's intent
22 to convey any interest in the property and of the provisions made
23 for the continued operation of the monitoring wells, treatment
24 facilities, or other response actions installed pursuant to this
25 Agreement. The requirement for such notice shall apply to real
26 property sold or transferred between agencies of the United States,

1 between the United States and private Parties, and between the
2 United States and state and local governments.

3 10.6 Nothing in this Part shall be construed to
4 limit the discretion of the Army to exercise the authority of the
5 President under Section 104(e) of CERCLA, 42 U.S.C. § 9604(e), as
6 delegated by Executive Order 12580.

7
8 XI. SAMPLING AND DATA/DOCUMENT AVAILABILITY

9 11.1 Pursuant to the RI/FS management plan, the
10 Parties shall make available to each other quality-assured results
11 of sampling, tests, or other data generated by or on behalf of any
12 Party under this Agreement within sixty (60) days of field testing
13 or the submittal of data to the laboratory. If quality assurance
14 is not completed within sixty (60) days, preliminary data or
15 results shall be made available within the sixty (60) day period
16 and quality assured data or results shall be submitted as they
17 become available but in no event later than one hundred (100) days
18 after testing or the submittal of data to the laboratory. These
19 periods can be extended upon mutual agreement among the Project
20 Managers.

21 11.2 At the written request of either the ADEC or
22 U.S. EPA Project Manager, the Army shall allow split or duplicate
23 samples to be taken by ADEC or U.S. EPA during sample collection
24 conducted during the implementation of this Agreement. The Army's
25 Project Manager shall notify the U.S. EPA and ADEC Project Managers
26 not less than fourteen (14) business days in advance of any

1 scheduled well drilling, sample collection, or other monitoring
2 activity, conducted pursuant to this Agreement. The Project
3 Managers will be notified prior to any unscheduled sampling event.
4 The fourteen (14) day notification can be waived upon mutual
5 agreement among the Project Managers.

6 11.3 If preliminary analysis indicates a potential
7 imminent and substantial endangerment to the public health, all
8 Project Managers shall be immediately notified.

9 11.4 Laboratory reports shall be made available at
10 the Site for the review of the Parties immediately upon completion
11 of laboratory analysis.

12 XII. QUALITY ASSURANCE

13 12.1 Throughout all sample collection,
14 transportation, and analyses activities conducted in connection
15 with this Agreement, the Army shall use procedures for quality
16 assurance, for quality control, and for chain-of-custody in
17 accordance with approved U.S. EPA methods, including "Interim
18 Guidelines and Specifications for Preparing Quality Assurance
19 Project Plans," QAMS-005/80, "Data Quality Objective Guidance,"
20 U.S. EPA 1540/687/003 and 004, and subsequent amendments to such
21 guidelines. The Army shall require each laboratory it uses to
22 perform any analysis according to approved U.S. EPA methods and to
23 demonstrate a quality assurance/quality control program consistent
24 with that followed by U.S. EPA and consistent with U.S. EPA
25 document QAMS-005/80.

1 XIII. REPORTING

2 13.1 The Army shall submit to the other Parties
3 quarterly written progress reports. The reports will include, but
4 not be limited to, the following information:

5 (a) A detailed summary of all of the remedial,
6 removal, and investigation activities during the previous quarter,
7 including any analytical results, any community relations
8 activities, and any community contacts or inquiries related to the
9 hazardous substance contamination at the Site;

10 (b) An outline of the planned activities for the
11 upcoming quarter and a revised depiction of the timeline for
12 Attachment I using the CPM process. Any revisions to the primary
13 milestones to this timeline shall be made pursuant to the
14 procedures specified in Part XXXIII of this Agreement;

15 (c) A detailed statement of the manner and the
16 extent to which the timetables and deadlines are being met;

17 (d) The status of efforts to obtain
18 rights-of-entry necessary for monitoring and well installation off-
19 Base; and

20 (e) The status of any other activities proposed or
21 underway, personnel changes, or funding availability, that affects
22 or potentially affects any phase of the activities undertaken
23 pursuant to this Agreement.

24 13.2 The quarterly written progress reports shall
25 be submitted on the twentieth (20th) day of each calendar quarter
26 following the effective date of this Agreement.

1 13.3 In addition to the requirements of this Part,
2 the Army shall notify the Parties promptly upon learning that any
3 CPM milestone may be or has been missed. CPM milestones include
4 milestones that affect or potentially affect the timely delivery of
5 a primary or secondary document, and any other milestone identified
6 by mutual agreement of the Project Managers.

7
8 XIV. NOTICE TO THE PARTIES

9 14.1 All Parties shall expeditiously transmit
10 primary and secondary documents, and all notices required herein.
11 Time limitations shall commence upon receipt.

12 14.2 Unless otherwise provided, notice to the
13 individual Parties shall be provided under this Agreement to the
14 following addresses:

15 (A) For the Army:

16 Cristal Fosbrook, Project Manager
17 6th ID(L) & USAG, AK
18 Public Works
19 Attn: APVR-PW
20 Fort Richardson, Alaska 99505
21 (Ph.) (907) 384-3044
22 (Fax) (907) 384-3047

23 and

24 Col. Robert Wrentmore
25 Director, Public Works
26 Attn: APVR-PW
27 HQ, 6th Infantry Division
28 Fort Richardson, Alaska 99505

1 (B) For U.S. EPA:

2 U.S. Environmental Protection Agency
3 Region 10
4 Superfund Federal Facility Branch
5 1200 Sixth Avenue, HW-124
6 Seattle, Washington 98101
7 Attn: R. Matthew Wilkening, Project
8 Manager
9 (Ph.) 206-553-1284
10 (Fax) 206-553-0957

11 (C) For the State of Alaska:

12 Alaska State Department of
13 Environmental Conservation
14 Southcentral Regional Office
15 Contaminated Site Program
16 3601 "C" Street, Suite 1334
17 Anchorage, AK 99503
18 Attn: Jennifer Roberts, Project Manager
19 (Ph.) 907-563-6529
20 (Fax) 907-273-4331

21 XV. PERMITS

22 15.1 Nothing in this Agreement relieves the Army
23 from the requirement of obtaining an otherwise applicable permit or
24 other authorization whenever it proposes a response action
25 involving the shipment or movement off-Site of a hazardous
26 substance, or undertakes any activities not directly related to
27 response actions at the Site.

28 XVI. RETENTION OF RECORDS

16.1 The Army shall preserve for a minimum of ten
(10) years after termination and satisfaction of this Agreement the
Administrative Record, and any post-Record of Decision primary and
secondary documents and reports in their possession or in the
possession of their divisions, employees, agents, accountants,
contractors, or attorneys that relate to the presence of hazardous

1 wastes and constituents, hazardous substances, pollutants, and
2 contaminants at the Site or to the implementation of this
3 Agreement, despite any document retention policy to the contrary.
4 After this ten (10) year period, the Army shall notify the other
5 Parties at least forty-five (45) days prior to destruction or
6 disposal of any such documents or records. Upon request by any
7 Party, the Army shall make available such records or documents, or
8 true copies. Documents may be converted to permanent electronic or
9 optical media and paper originals disposed of after forty-five (45)
10 days notification to the other Parties.

11
12 XVII. PUBLIC PARTICIPATION AND ADMINISTRATIVE RECORD

13 17.1 The Parties agree that this Agreement and any
14 subsequent plan(s) for remedial action at the Site arising out of
15 this Agreement shall comply with the administrative record and
16 public participation requirements of CERCLA, including Sections
17 113(k) and 117 of CERCLA, 42 U.S.C. §§ 9613(k) and 9617, the NCP,
18 and U.S. EPA national guidance on public participation and
19 administrative records.

20 17.2 The Army shall develop and implement a
21 Community Relations Plan ("CRP") that responds to the need for an
22 interactive relationship with all interested community elements,
23 both on- and off-Site, regarding activities and elements of work
24 undertaken by the Army. The Army agrees to develop and implement
25 the CRP in a manner consistent with Section 117 of CERCLA,
26 42 U.S.C. § 9617, the NCP, and U.S. EPA national guidance.

1 17.3 The Army shall establish and maintain a
2 certified copy of the administrative record at or near Fort
3 Richardson in accordance with Section 113(k) of CERCLA, 42 U.S.C.
4 § 9613(k). The administrative record shall be established and
5 maintained in accordance with U.S. EPA national policy and
6 guidelines. Army shall provide to U.S. EPA and ADEC a copy of the
7 Administrative Record Index, with updates as changes occur. In
8 addition, the Army shall promptly provide copies of any document
9 included in the Administrative Record to U.S. EPA and/or ADEC, upon
10 request.

11 XVIII. CREATION OF DANGER/EMERGENCY ACTION

12 18.1 In the event U.S. EPA or ADEC determine that
13 activities conducted pursuant to this Agreement, or any other
14 circumstances or activities, are creating an imminent and
15 substantial endangerment to the health or welfare of the people on
16 the Site or in the surrounding area or to the environment, U.S. EPA
17 or ADEC may require or order the Army to stop further
18 implementation of this Agreement for such period of time as needed
19 to abate the danger. Any unilateral work stoppage for longer than
20 twenty-four (24) hours requires the concurrence of the U.S. EPA
21 Division Director, in accordance with Paragraph 21.9.

22 18.2 In the event the Army determines that
23 activities undertaken in furtherance of this Agreement or any other
24 circumstances or activities at the Site are creating an imminent
25 and substantial endangerment to the health or welfare of the people
26 on the Site or in the surrounding area or to the environment, the

1 Army may stop implementation of this Agreement for such periods of
2 time necessary for U.S. EPA and ADEC to evaluate the situation and
3 determine whether the Army should proceed with implementation of
4 the Agreement or whether the work stoppage should be continued
5 until the danger is abated. The Army shall notify the other
6 Parties as soon as is possible, but not later than twenty-four (24)
7 hours after such stoppage of work, and provide U.S. EPA and ADEC
8 with documentation of its analysis in reaching this determination
9 within five (5) days of any such stoppage. If, after consultation
10 with ADEC, U.S. EPA disagrees with the Army determination, it may
11 require the Army to resume implementation of this Agreement.

12 18.3 If U.S. EPA concurs in the work stoppage by
13 the Army, or if U.S. EPA or ADEC require or order a work stoppage,
14 the Army's obligations shall be suspended and the time periods for
15 performance of that work, as well as the time period for any other
16 work dependent upon the work that was stopped, shall be extended,
17 pursuant to Part XXV of this Agreement. Any disagreements pursuant
18 to this Part shall be resolved through the dispute resolution
19 procedures in Part XXI of the Agreement by referral directly to the
20 DRC.

21 XIX. FIVE YEAR REVIEW

22 19.1 If a remedial action is selected that results
23 in any hazardous substances, pollutants, or contaminants remaining
24 at the Site, the Parties shall review such remedial action no less
25 often than each five (5) years after the initiation of such
26 remedial action to assure that human health and the environment are

1 being protected by the remedial action being implemented. The
2 U.S. EPA Project Manager and the ADEC Project Manager shall advise
3 the Army Project Manager of their findings in this regard. If any
4 Party determines that additional action is required, the Agreement
5 may be amended pursuant to Part XXXIII. If the Parties are unable
6 to agree on the need to amend this Agreement, dispute resolution
7 under Part XXI shall be available to any Party.

8 XX. CONSULTATION WITH U.S. EPA AND ADEC

9 A. Applicability

10 20.1 The provisions of this Part establish the
11 procedures that shall be used by the Parties to provide each other
12 with appropriate notice, review, comment, and response to comments
13 regarding RI/FS and RD/RA documents, specified herein as either
14 primary or secondary documents. In accordance with Section 120 of
15 CERCLA, 42 U.S.C. § 9620, and 10 U.S.C. § 2705, the Army will
16 normally be responsible for issuing primary and secondary documents
17 to U.S. EPA and ADEC. As of the effective date of this Agreement,
18 all draft and draft final documents for any deliverable document
19 identified herein shall be prepared, distributed, and subject to
20 dispute in accordance with Paragraphs 20.3 through 20.24.

21 20.2 The designation of a document as "draft" or
22 "final" is solely for purposes of consultation with U.S. EPA and
23 ADEC in accordance with this Part. Such designation does not
24 affect the obligation of the Parties to issue documents, which may
25 be referred to herein as "final," to the public for review and
26 comment as appropriate and as required by law.

1 B. General Process for RI/FS and RD/RA Documents

2 20.3 Primary documents include those documents that
3 are major, discrete portions of RI/FS or RD/RA activities. Primary
4 documents are initially issued by the Army in draft subject to
5 review and comment by U.S. EPA and ADEC. Following receipt of
6 comments on a particular draft primary document, the Army will
7 respond to the comments received and issue a draft final primary
8 document subject to dispute resolution. The draft final primary
9 document will become the final primary document either thirty (30)
10 days after the submittal of a draft final document if dispute
11 resolution is not invoked, unless otherwise agreed as provided in
12 Paragraph 20.18, or as modified by decision of the dispute
13 resolution process. U.S. EPA and ADEC shall, within the first
14 fifteen (15) days of this thirty (30) day period for finalization
15 of draft final primary documents, identify to the Army any issues
16 or comments in order to provide sufficient time for review,
17 discussion, and modification of draft final documents as necessary
18 to resolve potential disputes.

19 20.4 Secondary documents include those documents
20 that are discrete portions of the primary documents and are
21 typically input or feeder documents. Secondary documents are
22 issued by the Army in draft subject to review and comment by
23 U.S. EPA and ADEC. Although the Army will respond to comments
24 received, the draft secondary documents may be finalized in the
25 context of the corresponding primary documents. A secondary
26 document may be disputed only at the time the corresponding draft

1 final primary document is issued. However, RD/RA SOWs may be
2 disputed as if they were a primary document.

3 C. Primary Documents

4 20.5 The Army shall complete and transmit draft
5 documents for the following primary documents to U.S. EPA and ADEC
6 for review and comment in accordance with the provisions of this

7 Part:

- 8 (a) Community Relations Plan ("CRP")
9 (b) Preliminary Source Evaluation ("PSE") 2 Report
10 (c) RI/FS Management Plan, including Scope of Work,
11 Work Plan, Field Sampling Plan ("FSP"), Quality
12 Assurance Project Plan ("QAPP"), and Treatability
13 Study Work Plan (as needed)
14 (d) Remedial Investigation/Feasibility Study
15 ("RI/FS"), including RI, Baseline Risk Assessment,
16 FS
17 (e) Record of Decision ("ROD")
18 (f) Pre-Final (95%) Remedial Design ("RD")
19 (g) Remedial Action ("RA") Work Plan, as needed
20 (h) RA Report
21 (i) Operation & Maintenance ("O & M") Report, as
22 needed
23 (j) Close-Out Report, as needed

24 20.6 Only the draft final documents for the primary
25 documents identified above shall be subject to dispute resolution.

26 The Army shall complete and transmit draft primary documents in

1 accordance with the schedules and deadlines established pursuant to
2 Part XXIV of this Agreement. Primary documents may include
3 secondary document target dates as provided for in Paragraph 20.8.
4 The purpose of target dates is to assist the Army in meeting
5 deadlines, but target dates do not become enforceable by their
6 inclusion in the primary documents and are not subject to Parts
7 XXII, XXIII, XXIV, and/or XXV.

8 D. Secondary Documents

9 20.7 The Army shall complete and transmit draft
10 documents for the following secondary documents to U.S. EPA and
11 ADEC for review and comment in accordance with the provisions of
12 this Part:

- 13 (a) PSE 1 Report
14 (b) PSE 2 Work Plan
15 (c) Statement of Work
16 (d) Conceptual Site Model, and initial identification
17 of DQO's, ARARs, and TBCs
18 (e) Health and Safety Plan ("HSP")
19 (f) Treatability Study Report, as needed
20 (g) Proposed Plan
21 (h) 35% Remedial Design, as needed
22 (i) RD Work Plan
23 (j) Base-wide Studies (other than the CRP) and
24 Monitoring Documents
25 (k) Sampling and Data Results
26 (l) Additional secondary documents, as agreed.

1 20.8 U.S. EPA and ADEC will comment on the draft
2 documents for the secondary documents listed above. Such documents
3 shall not be subject to dispute resolution except as provided by
4 Paragraph 20.4. Target dates shall be established pursuant to Part
5 XXIV of this Agreement for the completion and transmission of draft
6 secondary documents.

7 E. Meetings of the Project Managers on Development of Documents

8 20.9 The Project Managers shall meet or confer at least
9 every thirty (30) days, except as otherwise agreed by the Parties,
10 to review and discuss the progress of work being performed at the
11 Site on the primary and secondary documents. Prior to preparing
12 any draft document specified in Paragraphs 20.5 and 20.7 above, the
13 Project Managers shall meet to discuss the document results in an
14 effort to reach a common understanding, to the maximum extent
15 practicable, with respect to the results to be presented in the
16 draft document. Prior to the development of either a Statement of
17 Work, Management Plan, or Sampling and Analysis Plan, the Project
18 Managers shall meet to develop a Scope of Work that will be used
19 when preparing a Sampling and Analysis Plan or Management Plan for
20 a remedial site inspection or investigation.

21 F. Identification and Determination of Potential ARARs

22 20.10 For those primary or secondary documents that
23 consist of or include ARAR determinations, prior to the issuance of
24 a draft document the Project Managers shall meet to identify and
25 propose, to the best of their ability, all potential ARARs
26 pertinent to the document being addressed. ADEC shall identify all

1 potential state ARARs as early in the remedial process as possible
2 consistent with the requirements of Section 121 of CERCLA,
3 42 U.S.C. § 9621, and the NCP. The Army shall consider any
4 official written interpretations of ARARs provided by ADEC. Draft
5 ARAR determinations shall be prepared by the Army in accordance
6 with Section 121(d)(2) of CERCLA, 42 U.S.C. § 9621(d)(2), the NCP,
7 and pertinent written national guidance issued by U.S. EPA and
8 ADEC, which is not inconsistent with CERCLA and the NCP.

9 20.11 In identifying potential ARARs, the Parties
10 recognize that actual ARARs can be identified only on a
11 source-specific basis and that ARARs depend on the specific
12 hazardous substances, pollutants, and contaminants at a source, the
13 particular actions proposed as a remedy, and the characteristics of
14 a source. The Parties recognize that ARAR identification is
15 necessarily an iterative process and that potential ARARs must be
16 re-examined throughout the RI/FS process until a ROD is issued.

17 G. Review and Comment on Draft Documents

18 20.12 The Army shall complete and transmit each draft
19 primary document to U.S. EPA and ADEC on or before the
20 corresponding deadline established for the issuance of the
21 document. The Army shall complete and transmit the draft secondary
22 document in accordance with the target dates established for the
23 issuance of such documents.

24 20.13 Unless the Parties mutually agree to another time
25 period, all draft documents shall be subject to a thirty (30) day
26 period for review and comment. Review of any document by U.S. EPA

1 or ADEC may concern all aspects of the document (including
2 completeness) and should include, but is not limited to, technical
3 evaluation of any aspect of the document, and consistency with
4 CERCLA, the NCP, applicable state laws, and any pertinent national
5 guidance or policy issued by U.S. EPA or ADEC. Comments by U.S.
6 EPA and ADEC shall be provided with adequate specificity so that
7 the Army may respond to the comments and, if appropriate, make
8 changes to the draft document. Comments shall refer to any
9 pertinent sources of authority or references upon which the
10 comments are based, and, upon request of the Army, U.S. EPA or ADEC
11 shall provide a copy of the cited authority or reference. In cases
12 involving complex or unusually lengthy reports, U.S. EPA or ADEC
13 may extend the thirty (30) day comment period for an additional
14 twenty (20) days by written notice to the Army prior to the end of
15 the thirty (30) day period. On or before the close of the comment
16 period, U.S. EPA and ADEC shall transmit by next day mail their
17 written comments to the Army.

18 20.14 Representatives of the Army shall make themselves
19 readily available to U.S. EPA and ADEC during the comment period
20 for purposes of informally responding to questions and comments on
21 draft documents. Oral comments made during such discussions need
22 not be the subject of a written response by the Army on the close
23 of the comment period.

24 20.15 In commenting on a draft document that contains a
25 proposed ARAR determination, U.S. EPA and ADEC shall include a
26 reasoned statement of whether they object to any portion of the

1 proposed ARAR determination. To the extent that U.S. EPA or ADEC
2 do object, they shall explain the basis for their objection in
3 detail and shall identify any ARARs that they believe were not
4 properly addressed in the proposed ARAR determination.

5 20.16 Following the close of the comment period for a
6 draft document, the Army shall give full consideration to all
7 written comments on the draft document submitted during the comment
8 period. Within thirty (30) days of the close of the comment period
9 on a draft secondary document, the Army shall transmit to U.S. EPA
10 and ADEC its written response to comments received within the
11 comment period. Within thirty (30) days of the close of the
12 comment period on a draft primary document, the Army shall transmit
13 to U.S. EPA and ADEC a draft final primary document that shall
14 include the Army's response to all written comments received within
15 the comment period. While the resulting draft final document shall
16 be the responsibility of the Army, it shall be the product of
17 consensus to the maximum extent possible.

18 20.17 The Army may extend the thirty (30) day period for
19 either responding to comments on a draft document or for issuing
20 the draft final primary document for an additional twenty (20) days
21 by providing notice to U.S. EPA and ADEC. In appropriate
22 circumstances, this time period may be further extended in
23 accordance with Part XXV.

24 H. Availability of Dispute Resolution for
25 Draft Final Primary Documents

26 20.18 Project Managers may agree to extend by fifteen
27 (15) days the period for finalization of the draft final primary

1 documents provided in Paragraph 20.3 for discussion and
2 modification of draft final primary documents as necessary to
3 resolve potential disputes:

4 20.19 Dispute resolution shall be available to the
5 Parties for draft final primary documents as set forth in
6 Part XXI.

7 20.20 When dispute resolution is invoked on a draft
8 final primary document, work may be stopped in accordance with the
9 procedures set forth in Part XXI (Dispute Resolution).

10 I. Finalization of Documents

11 20.21 The draft final primary document shall serve
12 as the final primary document if no Party invokes dispute
13 resolution regarding the document or, if invoked, at completion of
14 the dispute resolution process should the Army's position be
15 sustained. If the Army's determination is not sustained in the
16 dispute resolution process, the Army shall prepare, within not more
17 than thirty-five (35) days, a revision of the draft final document
18 that conforms to the results of dispute resolution. In appropriate
19 circumstances, the time period for this revision process may be
20 extended in accordance with Part XXV hereof.

21 J. Subsequent Modifications

22 20.22 Following finalization of any primary document
23 pursuant to Paragraph 20.21 above, any Party may seek to modify the
24 document, including seeking additional field work, pilot studies,
25 computer modeling, or other supporting technical work, only as
26 provided in Paragraphs 20.23 and 20.24.

1 20.23 A Party may seek to modify a document after
2 finalization if it determines, based on new information (i.e.,
3 information that became available, or conditions that became known,
4 after the document was finalized) that the requested modification
5 is necessary. A Party may seek such a modification by submitting
6 a concise written request to the Project Managers of the other
7 Parties. The request shall specify the nature of the requested
8 modification and how the request is based on new information.

9 20.24 In the event that a consensus among the
10 Parties is reached, the modification shall be incorporated by
11 reference and become fully enforceable under the Agreement. In the
12 event that a consensus is not reached by the Project Managers on
13 the need for a modification, any Party may invoke dispute
14 resolution as provided in Part XXI to determine if such
15 modification shall be made. Modification of a document shall be
16 required only upon a showing that: (1) the requested modification
17 is based on significant new information, and (2) the requested
18 modification could be of significant assistance in evaluating
19 effects on human health or the environment, in evaluating the
20 selection of remedial alternatives, or in protecting human health
21 or the environment.

22 20.25 Nothing in this Part shall alter U.S. EPA's or
23 ADEC's ability to request the performance of additional work that
24 was not contemplated by this Agreement. The Army's obligation to
25 perform such work must be established by either a modification of
26 a document or by amendment to this Agreement.

XXI. RESOLUTION OF DISPUTES

21.1 Except as specifically set forth elsewhere in this Agreement, if a dispute arises under this Agreement, the procedures of this Part shall apply. All Parties to this Agreement shall use their best efforts to informally resolve disputes at the Project Manager level. If the Project Managers cannot resolve the issue, the Project Managers shall elevate the informal dispute to their immediate supervisors through written notification to each such supervisor no later than five (5) days before the thirty (30) day time period specified in Paragraph 21.3 is set to expire. The immediate supervisors shall have five (5) days from the date the supervisors were notified in writing by the Project Managers to resolve the informal dispute. If the dispute still cannot be resolved informally, the following procedures of this Part shall be implemented to resolve a dispute.

21.2 It is the intent of the Parties to this Agreement that all formal disputes brought under this Part be resolved by the DRC or the SEC. This Agreement provides that the Army and ADEC may elevate a formal dispute to the Administrator of U.S. EPA for final resolution. However, the Army and ADEC intend that generally only those disputes which are determined to have significant national policy implications will be so elevated.

21.3 Within thirty (30) days after: (1) the issuance of a draft final primary document pursuant to this Agreement, or (2) any action that leads to or generates a dispute, the disputing Party shall submit to the Dispute Resolution

1 Committee ("DRC") a written statement of dispute setting forth the
2 nature of the dispute, the work affected by the dispute, the
3 disputing Party's position with respect to the dispute, and the
4 information the disputing Party is relying upon to support its
5 position.

6 21.4 Prior to any Party's issuance of a written
7 statement of dispute, the disputing Party shall engage the other
8 Parties in informal dispute resolution among the Project Managers
9 and/or their immediate supervisors. During this informal dispute
10 resolution period the Parties shall meet as many times as are
11 necessary to discuss and attempt resolution of the dispute.

12 21.5 The DRC will serve as a forum for resolution
13 of disputes for which agreement has not been reached through
14 informal dispute resolution. The Parties shall each designate one
15 individual and an alternate to serve on the DRC. The individuals
16 designated to serve on the DRC shall be employed at the policy
17 level (SES or equivalent) or be delegated the authority to
18 participate on the DRC for the purposes of dispute resolution under
19 this Agreement. The U.S. EPA representative on the DRC is the
20 Hazardous Waste Division Director ("Division Director") of
21 U.S. EPA's Region 10. The Army's designated member is the Garrison
22 Commander for Fort Richardson. ADEC's designated member is the
23 South Central Regional Administrator of ADEC. Written notice of
24 any delegation of authority from a Party's designated
25 representative on the DRC shall be provided to all other Parties.

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1 21.6 Following elevation of a dispute to the DRC,
2 the DRC shall have twenty-one (21) days to unanimously resolve the
3 dispute and issue a written decision. The DRC members shall, as
4 appropriate, confer, meet, and exert their best efforts to resolve
5 the dispute and issue a written decision signed by all Parties. If
6 the DRC is unable to unanimously resolve the dispute within this
7 21-day period, the written statement of dispute shall be forwarded
8 by the disputing party to the Senior Executive Committee ("SEC")
9 for resolution within seven (7) days after the close of the twenty-
10 one (21) day resolution period.

11 21.7 The SEC will serve as the forum for resolution
12 of disputes for which agreement has not been reached by the DRC.
13 EPA's representative on the SEC is the Regional Administrator of
14 EPA Region 10. ADEC's representative on the SEC is the Division
15 Director of Spill, Prevention and Response. Army's representative
16 on the SEC is the Deputy Assistant Secretary of the Army
17 (Environment, Safety and Occupational Health). The SEC members
18 shall, as appropriate, confer, meet and exert their best efforts to
19 resolve the dispute.

20 21.8 Following elevation of a dispute to the SEC,
21 the SEC shall have twenty-one (21) days to unanimously resolve the
22 dispute and issue a written decision signed by all Parties. If the
23 SEC is unable to resolve the dispute within this 21-day period,
24 then the Regional Administrator of U.S. EPA shall issue a final
25 written position on the dispute within fourteen (14) days. The
26 time for issuing such a decision may be extended by EPA for an

1 additional seven (7) days upon notice to other Parties. This
2 authority cannot be delegated.

3 21.9 Within fourteen (14) days of receipt of the
4 EPA Region 10 Regional Administrator's final written position on
5 the dispute, the Army or ADEC may request that the Administrator of
6 EPA resolve the dispute. The request must be in writing, and must
7 identify the basis for the dispute by the Secretary of the Army or
8 the Commissioner of ADEC and whether the dispute has significant
9 national policy implications. If no such request is made within
10 the fourteen (14) day period, the Army and ADEC shall be deemed to
11 have agreed with the EPA Region 10 Regional Administrator's written
12 position. If such a request is made, the EPA Administrator will
13 review and resolve the dispute in accordance with applicable law
14 and regulations within twenty-one (21) days. Upon request and
15 prior to resolving the dispute, the Administrator shall meet and
16 confer with all the Parties to discuss the issues under dispute.
17 The Administrator shall provide five (5) days advance notice of
18 such a meeting to all Parties in order to afford the Parties the
19 opportunity to attend. Upon resolution, the Administrator shall
20 provide the Parties with a written final decision setting forth
21 resolution of the dispute. The duties of the EPA Administrator set
22 forth in this Part shall not be delegated.

23 21.10 The pendency of any dispute under this Part
24 shall not affect the Army's responsibility for timely performance
25 of the work required by this Agreement, except that the time period
26 for completion of work affected by such dispute shall be extended

1 for a period of time usually not to exceed the actual time taken to
2 resolve any good faith dispute in accordance with the procedures
3 specified herein. All elements of the work required by this
4 Agreement that are not affected by the dispute shall continue and
5 be completed in accordance with the applicable schedule.

6 21.11 When dispute resolution is in progress, work
7 affected by the dispute will immediately be discontinued if the
8 Hazardous Waste Division Director for U.S. EPA's Region 10 or the
9 Director of ADEC request, in writing, that work related to the
10 dispute be stopped because, in U.S. EPA's or ADEC's opinion, such
11 work is inadequate or defective, and such inadequacy or defect is
12 likely to yield an adverse effect on human health or the
13 environment, or is likely to have a substantial adverse effect on
14 the remedy selection or implementation process. To the extent
15 possible, U.S. EPA and ADEC shall consult with all Parties prior to
16 initiating a work stoppage request. After stoppage of work, if any
17 Party believes that the work stoppage is inappropriate or may have
18 potential significant adverse impacts, that Party may meet with the
19 other Parties to discuss the work stoppage. Following this
20 meeting, and further consideration of the issues, the U.S. EPA
21 Region 10 Hazardous Waste Division Director will issue, in writing,
22 a final decision with respect to the work stoppage. The final
23 written decision of the U.S. EPA Region 10 Hazardous Waste Division
24 Director may immediately be subjected to formal dispute resolution.
25 Such dispute may be brought directly to either the DRC or the SEC,
26 at the discretion of the Party requesting dispute resolution.

1 21.12 Within twenty-one (21) days of resolution of
2 a dispute pursuant to the procedures specified in this Part, the
3 Army shall incorporate the resolution and final determination into
4 the appropriate plan, schedule, or procedures and proceed to
5 implement this Agreement according to the amended plan, schedule,
6 or procedures.

7 21.13 Resolution of a dispute pursuant to this Part
8 of the Agreement constitutes a final resolution of that dispute
9 arising under this Agreement. All Parties shall abide by all terms
10 and conditions of any final resolution of dispute obtained pursuant
11 to this Part of this Agreement.

12 XXII. ENFORCEABILITY

13 22.1 The Parties agree that:

14 (a) Upon the effective date of this Agreement, any
15 standard, regulation, condition, requirement, or order which has
16 become effective under CERCLA and is incorporated into this
17 Agreement is enforceable by any person pursuant to Section 310 of
18 CERCLA, 42 U.S.C. § 9659, and any violation of such standard,
19 regulation, condition, requirement, or order will be subject to
20 civil penalties under Sections 109 and 310(c) of CERCLA, 42 U.S.C.
21 §§ 9609 and 9659(c);

22 (b) All deadlines associated with the RI/FS shall
23 be enforceable by any person pursuant to Section 310 of CERCLA,
24 42 U.S.C. § 9659, and any violation of such deadlines will be
25 subject to civil penalties under Sections 109 and 310(c) of CERCLA,
26 42 U.S.C. §§ 9609 and 9659(c);

1 (c) All terms and conditions of this Agreement
2 that relate to interim or final remedial actions, including
3 corresponding schedules and deadlines, and all work associated with
4 the interim or final remedial actions, shall be enforceable by any
5 person pursuant to Section 310(c) of CERCLA, 42 U.S.C. § 9659(c),
6 and any violation of such terms or conditions will be subject to
7 civil penalties under Sections 109 and 310(c) of CERCLA, 42 U.S.C.
8 §§ 9609 and 9659(c); and

9 (d) Any final resolution of a dispute pursuant to
10 Part XXI of this Agreement that establishes a term, condition,
11 schedule, or deadline shall be enforceable by any person pursuant
12 to Section 310(c) of CERCLA, 42 U.S.C. § 9659(c), and any violation
13 of such term, condition, schedule, or deadline will be subject to
14 civil penalties under Sections 109 and 310(c) of CERCLA, 42 U.S.C.
15 §§ 9609 and 9659(c).

16 22.2 The Parties agree that all Parties shall have
17 the right to enforce the terms of this Agreement.

18
19 XXIII. STIPULATED PENALTIES

20 23.1 In the event that the Army fails to submit a
21 primary document to U.S. EPA and ADEC pursuant to the appropriate
22 timetable or deadline in accordance with the requirements of this
23 Agreement, or fails to comply with a term or condition of this
24 Agreement that relates to an interim or final remedial action, U.S.
25 EPA may assess a stipulated penalty against the Army. A stipulated
26 penalty may be assessed in an amount not to exceed five thousand

1 dollars (\$5,000) for the first week (or part thereof), and ten
2 thousand dollars (\$10,000) for each additional week (or part
3 thereof) for which a failure set forth in this Paragraph occurs.

4 23.2 Upon determining that the Army has failed in
5 a manner set forth in Paragraph 23.1, U.S. EPA shall so notify the
6 Army in writing. If the failure in question is not already subject
7 to dispute resolution at the time such notice is received, the Army
8 shall have fifteen (15) days after receipt of the notice to invoke
9 dispute resolution on the question of whether the failure did, in
10 fact, occur. The Army shall not be liable for the stipulated
11 penalty assessed by U.S. EPA if the failure is determined, through
12 the dispute resolution process, not to have occurred. No
13 assessment of a stipulated penalty shall be final until the
14 conclusion of dispute resolution procedures related to the
15 assessment of the stipulated penalty.

16 23.3 The annual reports required by Section
17 120(e)(5) of CERCLA, 42 U.S.C. § 9620(e)(5), shall include, with
18 respect to each final assessment of a stipulated penalty against
19 the Army under this Agreement, each of the following:

- 20 a. The facility responsible for the failure;
- 21 b. A statement of the facts and circumstances
22 giving rise to the failure;
- 23 c. A statement of any administrative or other
24 corrective action taken at the relevant
25 facility, or a statement of why such measures
26 were determined inappropriate;
- 27 d. A statement of any additional action taken by
28 or at the facility to prevent recurrence of
 the same type of failure; and

1 e. The total dollar amount of the stipulated
2 penalty assessed for the particular failure.

3 23.4 Stipulated penalties assessed pursuant to this
4 Part shall be payable to the Hazardous Substances Response Trust
5 Fund only in the manner and to the extent expressly provided for in
6 Acts authorizing funds for, and appropriations to, the U.S.
7 Department of Defense.

8 23.5 In no event shall this Part give rise to a
9 stipulated penalty in excess of the amount set forth in Section 109
10 of CERCLA, 42 U.S.C. § 9609.

11 23.6 This Part shall not affect the Army's ability
12 to obtain an extension of a timetable, deadline, or schedule
13 pursuant to Part XXV of this Agreement.

14 23.7 Nothing in this Agreement shall be construed
15 to render any officer or employee of the Army personally liable for
16 the payment of any stipulated penalty assessed pursuant to this
17 Part.

18 XXIV. DEADLINES

19 24.1 Enforceable deadlines (subject to extension
20 pursuant to Parts XXV and XXXIII) for the draft primary documents
21 are established in Attachment I.

22 24.2 The Army will propose secondary document
23 target dates not otherwise established in Attachment I. Within
24 twenty-one (21) days of finalization of each ROD, the Army shall
25 submit an RD/RA SOW, which is a consensus document subject to
26 dispute but is not a primary document. The RD/RA SOW will include
27 proposed target dates for completion of the applicable draft

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1 secondary documents and deadlines for completion of the following
2 draft primary documents:

3 (a) Remedial Design

4 (b) Remedial Action Work Plan

5 The Remedial Action Work Plan will establish additional primary and
6 secondary documents, deadlines, and/or target dates. If the
7 Parties agree on the proposed deadlines and/or target dates, the
8 finalized deadlines and/or target dates shall be incorporated into
9 the Agreement. If the Parties fail to agree within thirty (30)
10 days on the proposed deadlines and/or target dates, the matter
11 shall immediately be submitted for dispute resolution pursuant to
12 Part XXI of this Agreement. The deadlines shall be published
13 utilizing the procedures set forth in Paragraph 24.4.

4 24.3 The Army shall provide notification to
15 U.S. EPA and ADEC within thirty (30) days of identifying a new
16 potential source area. Unless the Parties agree on another
17 disposition, new source areas will be addressed under the last
18 scheduled OU as described in Attachment I.

19 24.4 The final deadlines established pursuant to
20 this Part shall be published by U.S. EPA, in conjunction with ADEC.

21 XXV. EXTENSIONS

22 25.1 Either a deadline or a schedule shall be
23 extended upon receipt of a timely request for extension and when
24 good cause exists for the requested extension. Any request for
25 extension by a Party shall be submitted in writing to the Project
26 Managers and shall specify:

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

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

- 8 a. An event of Force Majeure;
- 9 b. A delay caused by another Party's failure to meet
10 any requirement of this Agreement;
- 11 c. A delay caused by the good faith invocation of
12 dispute resolution or the initiation of judicial
13 action;
- 14 d. A delay caused, or that is likely to be caused, by
15 the grant of an extension in regard to another
16 deadline or schedule; and
- 17 e. Any other event or series of events mutually
18 agreed to by the Parties as constituting good
19 cause.

20 25.2 Absent agreement of the Parties with respect
21 to the existence of good cause, the requesting Party may seek and
22 obtain a determination through the dispute resolution process that
23 good cause exists.

24 25.3 Within fourteen (14) days of receipt of a
25 request for an extension of a deadline or a schedule, the other
26 Parties shall advise the requesting Party, in writing, of their
27 respective positions on the request. Any failure by the other
28 Parties to respond within fourteen (14) days shall be deemed to
constitute concurrence in the request for extension. If any Party
does not concur in the requested extension, it shall include in its

1 statement of nonconurrence an explanation of the basis for its
2 position.

3 25.4 If there is consensus among the Parties that
4 the requested extension is warranted, the deadline or schedule
5 affected shall be extended accordingly. If there is no consensus
6 among the Parties as to whether all or part of the requested
7 extension is warranted, the deadline or schedule shall not be
8 extended except in accordance with a determination resulting from
9 the dispute resolution process.

10 25.5 Within seven (7) days of receipt of a
11 statement of nonconurrence with the requested extension, the
12 requesting Party may invoke dispute resolution.

13 25.6 A timely and good faith request for an
14 extension shall toll any assessment of stipulated penalties or
15 application for judicial enforcement of the affected deadline or
16 schedule until a decision is reached on whether the requested
17 extension will be approved. If the Army invokes dispute resolution
18 and the requested extension is denied, stipulated penalties may be
19 assessed and may accrue from the date of the original deadline or
20 the date EPA or ADEC denied, in writing, the Army's requested
21 extension, whichever is later. Following the grant of an
22 extension, an assessment of stipulated penalties or an application
23 for judicial enforcement may be sought only to compel compliance
24 with the deadline or schedule as most recently extended.

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1 XXVI. FORCE MAJEURE

2 26.1 A Force Majeure shall mean any event arising
3 from causes beyond the control of a Party that causes a delay in or
4 prevents the performance of any obligation under this Agreement,
5 including, but not limited to, acts of God; fire; war;
6 insurrection; civil disturbance; explosion; unanticipated breakage
7 or accident to machinery, equipment, or lines of pipe despite
8 reasonably diligent maintenance; adverse weather conditions that
9 could not be reasonably anticipated; unusual delay in
10 transportation; restraint by court order or order of public
11 authority; inability to obtain, at a reasonable cost and after
12 exercise of reasonable diligence, any necessary authorizations,
13 approvals, permits, or licenses due to action or inaction of any
14 governmental agency or authority other than the Army; delays caused
15 by compliance with applicable statutes or regulations governing
16 contracting, procurement, or acquisition procedures, despite the
17 exercise of reasonable diligence; and insufficient availability of
18 appropriated funds, if the Army shall have made timely request for
19 such funds as part of the budgetary process as set forth in Part
20 XXVII of this Agreement. A Force Majeure shall also include any
21 strike or other labor dispute, whether or not within the control of
22 the Parties affected thereby. Force Majeure shall not include
23 increased costs or expenses of response actions, whether or not
24 anticipated at the time such response actions were initiated.

1 XXVII. FUNDING

2 27.1 It is the expectation of the Parties to this
3 Agreement that all obligations of the Army arising under this
4 Agreement will be fully funded. The Army agrees to seek sufficient
5 funding through the U.S. Department of Defense budgetary process to
6 fulfill its obligations under this Agreement.

7 27.2 In accordance with Section 120(e)(5)(B) of
8 CERCLA, 42 U.S.C. § 9620(e)(5)(B), the Army shall include in its
9 annual report to Congress the specific cost estimates and budgetary
10 proposals associated with the implementation of this Agreement.

11 27.3 Funds authorized and appropriated annually by
12 Congress under the "Environmental Restoration, Defense"
13 appropriation in the U.S. Department of Defense Appropriation Act
14 and allocated by the Deputy Assistant Secretary of Defense
15 (Environment) to the Army will be the source of funds for
16 appropriate activities required by this Agreement consistent with
17 Section 211 of SARA, 10 U.S.C. Chapter 160. However, should the
18 Environmental Restoration, Defense appropriation be inadequate in
19 any year to meet the total Army CERCLA implementation requirements,
20 the U.S. Department of Defense shall employ and the Army shall
21 follow a standardized U.S. Department of Defense prioritization
22 process that allocates that year's appropriations in a manner that
23 maximizes the protection of human health and the environment. A
24 standardized U.S. Department of Defense prioritization model shall
25 be developed and utilized with the assistance of U.S. EPA and the
26 states.

1 27.4 Any requirement for the payment or obligation
2 of funds, including stipulated penalties, by the Army established
3 by the terms of this Agreement shall be subject to the availability
4 of appropriated funds, and no provision herein shall be interpreted
5 to require obligation or payment of funds in violation of the
6 Anti-Deficiency Act, 31 U.S.C. § 1341. In cases where payment or
7 obligation of funds, including stipulated penalties, would
8 constitute a violation of the Anti-Deficiency Act, the dates
9 established requiring the payment or obligation of such funds shall
10 be appropriately adjusted.

11 27.5 If appropriated funds are not available to
12 fulfill the Army's obligations under this Agreement, U.S. EPA and
13 ADEC reserve the right to initiate an action against any other
14 person or to take any response action that would be appropriate
15 absent this Agreement.

16 27.6 The Project Manager for the Army shall consult
17 with the Project Managers from ADEC and U.S. EPA before the Army
18 submits its budget estimates for fiscal year 1995 and beyond. The
19 Project Managers for the Parties shall consult and assist the Army
20 in development of the scoping process and the cost estimates,
21 including the development of the assumptions that are part of the
22 cost estimates, for completion of the tasks under this Agreement.
23 As part of this consultation process, the Army's Project Manager
24 shall submit the assumptions proposed to be used by the Army to the
25 Project Managers for U.S. EPA and ADEC. The Project Managers for
26 the Parties shall then discuss and concur in writing regarding the

1 assumptions and cost estimates to be used by the Army in developing
2 its budget estimates for fiscal year 1995 and beyond. The budget
3 documents prepared by the Army shall clearly establish that the
4 Army has requested all necessary funds to carry out its obligations
5 under this Agreement for the applicable budget year and shall
6 include information similar to that contained in the Army's
7 Expanded Exhibit 2 Report identified in the 1383 Data Base
8 Management (Version 2). The Army shall honor all reasonable
9 requests by U.S. EPA or ADEC to review documentation or information
10 regarding the budget, which relate to this Agreement. All budget
11 documents related to this Agreement shall be retained and shall,
12 upon request, be provided to U.S. EPA and/or ADEC in the event of
13 an extension request, Force Majeure, or other event based on a
4 funding limitation.

15 XXVIII. RECOVERY OF EXPENSES

16 28.1 The Army and U.S. EPA agree to amend this Part
17 at a later date in accordance with any subsequent national
18 resolution of the currently contested issue of cost reimbursement.

19 28.2 The Army and ADEC agree to use the
20 Defense/State Memorandum of Agreement signed on June 1, 1990, for
21 the reimbursement of services provided in direct support of the
22 Army environmental restoration activities at the Site pursuant to
23 this Agreement.

24 XXIX. OTHER CLAIMS

25 29.1 Nothing in this Agreement shall constitute or
26 be construed as a bar or release from any claim, cause of action,

1 or demand in law or equity by or against any persons, firm,
2 partnership, or corporation not a signatory to this Agreement for
3 any liability it may have arising out of or relating in any way to
4 this Agreement or the generation, storage, treatment, handling,
5 transportation, release, or disposal of any hazardous substances,
6 hazardous wastes, hazardous constituents, pollutants, or
7 contaminants found at, taken to, or taken from the Site.

8 29.2 U.S. EPA and ADEC shall not be held as a Party
9 to any contract entered into by the Army to implement the
10 requirements of this Agreement.

11 29.3 The Army shall notify the appropriate federal
12 and state natural resource trustees as required by Section
13 104(b)(2) of CERCLA, 42 U.S.C. § 9604(b)(2), and Section 2(e)(2) of
14 Executive Order 12580. Except as provided herein, the Army is not
15 released from the liability that it may have pursuant to any
16 provisions of state and federal law for any claim for damages or
17 liability for destruction of, or loss of, natural resources.

18 29.4 This Agreement shall not restrict U.S. EPA
19 and/or ADEC from taking any legal or response action for any matter
20 not covered by this Agreement.

21 XXX. OTHER APPLICABLE LAWS

22 30.1 All actions required to be taken pursuant to
23 this Agreement shall be undertaken in accordance with the
24 requirements of all applicable state and federal laws and
25 regulations unless an exemption from such requirements is provided
26 in this Agreement, CERCLA, or the NCP.

XXXI. CONFIDENTIAL INFORMATION

1
2 31.1 The Army may assert on its own behalf, or on
3 behalf of a contractor, subcontractor, or consultant, a
4 confidentiality claim covering all or part of the information
5 requested by any Party to this Agreement pursuant to Section 104 of
6 CERCLA, 42 U.S.C. § 9604(e), and 32 CFR Part 806. Analytical data
7 shall not be claimed as confidential by the Army, unless it may
8 disclose information that has already been so classified for
9 reasons of national security. Information determined to be
10 confidential by the Army pursuant to 32 CFR Part 806 shall be
11 afforded the protection specified therein and such information
12 shall be treated by ADEC as confidential. If no claim of
13 confidentiality accompanies the information when it is submitted to
14 either regulatory agency, the information may be made available to
15 the public without further notice to the Army.

XXXII. TRANSFER OF PROPERTY

16
17 32.1 Conveyance of title, easement, or other
18 interest in the Site to other agencies of the United States, to
19 private parties, and to state and local governments, shall be in
20 accordance with Section 120 of CERCLA, 42 U.S.C. § 9620, as
21 amended, and applicable U.S. EPA and Department of Defense guidance
22 and policy. Army shall notify U.S. EPA and ADEC of any such
23 conveyance at least ninety (90) days prior to such conveyance.

XXXIII. MODIFICATION/AMENDMENT OF AGREEMENT

24
25 33.1 Modifications, extensions, and/or actions
26 taken pursuant to Parts IX (Project Managers), XI (Sampling and

1 Data/Document Availability), XII (Quality Assurance), XIII
2 (Reporting), XX (Consultation with U.S. EPA and ADEC), XXIV
3 (Deadlines), and XXV (Extensions) may be effected by the unanimous
4 written agreement of the Project Managers for U.S. EPA, ADEC, and
5 the Army.

6 33.2 Modifications or amendments not permitted by
7 Paragraph 33.1 may be effected only by the unanimous agreement of
8 the signatories or upon completion of Dispute Resolution, as
9 applicable.

10 33.3 Any modification or amendment shall be reduced
11 to writing; shall be effective as of the date it is signed by all
12 the Project Managers for U.S. EPA, ADEC, and the Army, or by the
13 signatories, as applicable; and shall be incorporated into, and
14 modify, this Agreement.

15 XXXIV. SEVERABILITY

16 34.1 If any provision of this Agreement is ruled
17 invalid, illegal, or unconstitutional, the remainder of the
18 Agreement shall not be affected by such ruling, unless the dispute
19 resolution process determines that the severed provision materially
20 impacts upon another provision.

21 XXXV. TERMINATION AND SATISFACTION

22 35.1 The provisions of this Agreement shall be
23 deemed satisfied when the Parties unanimously agree that the Army
24 has completed its obligations under the terms of this Agreement.
25 Any Party may propose in writing the termination of this Agreement
26 upon a showing that the requirements of this Agreement have been

1 satisfied. A Party opposing termination of this Agreement shall
2 serve its objection upon the other Parties within thirty (30) days
3 of receipt of the proposal. Any objection shall describe in detail
4 the additional work needed to satisfy the requirements of the
5 Agreement. Any Party may invoke dispute resolution as to the
6 request for or objection to a proposal to terminate.

7 XXXVI. RESERVATION OF RIGHTS

8 36.1 The Parties agree to exhaust their rights
9 under Parts XX and XXI prior to exercising any rights to judicial
10 review that they may have.

11 36.2 Nothing in this Agreement shall be construed
12 as a restriction or waiver of any rights that U.S. EPA or ADEC may
13 have under CERCLA, including, but not limited to, any rights under
14 Section 113 and 310 of CERCLA, 42 U.S.C. §§ 9613 and 9659. The
15 U.S. Department of Defense does not waive any rights it may have
16 under CERCLA Sections 120 and 121(f)(3)(C), 42 U.S.C. §§ 9620 and
17 9621(f)(3)(C); Section 211 of SARA, 10 U.S.C. Chapter 160; and
18 Executive Order 12580.

19 36.3 ADEC reserves its right to maintain an action
20 under Section 121(f)(3)(B) of CERCLA, 42 U.S.C. § 9621(f)(3)(B), to
21 challenge the selection of a remedial action that does not attain
22 a legally applicable or relevant and appropriate standard,
23 requirement, criteria, or limitation ("ARAR"). If ADEC exercises
24 its right under Section 121(f)(3)(B) of CERCLA, 42 U.S.C.
25 § 9621(f)(3)(B), ADEC shall withdraw from this Agreement within
26 sixty (60) days following the effective date of the ROD. If ADEC

1 exercises its right to withdraw from this Agreement, the Army
2 expressly reserves any jurisdictional claim or defense that it may
3 have in regard to any legal right or remedies pursued by ADEC.

4 36.4 Nothing in this Agreement shall be construed
5 as authorizing any person to seek judicial review of any action or
6 work where review is barred by any provision of CERCLA, including
7 Section 113(h) of CERCLA, 42 U.S.C. § 9613(h).

8
9 XXXVII. EFFECTIVE DATE

10 37.1 This Agreement is effective upon signature by
11 all the Parties to this Agreement.

Signature sheet for the foregoing Federal Facility Agreement for Fort Richardson, among the U.S. Environmental Protection Agency, the U.S. Department of Defense, and the Alaska Department of Environmental Conservation.

Lewis D. Walker

9/28/94

LEWIS D. WALKER
Assistant Secretary of the Army
(Environment, Safety & Occupational Health)

Date

David A. Bramlett

28 June 94

DAVID A. BRAMLETT
Commanding General

Date

REPRESENTED BY:

Tamela J. Tobia, Esq.

Signature sheet for the foregoing Federal Facility Agreement for Fort Richardson, among the U.S. Environmental Protection Agency, the U.S. Department of Defense, and the Alaska Department of Environmental Conservation.

John A. Sandor
JOHN A. SANDOR
Commissioner
Alaska Department of Environmental Conservation
State of Alaska

11/17/94
Date

Bruce M. Botelho
BRUCE M. BOTELHO
Attorney General
State of Alaska

4/29/99
Date

REPRESENTED BY:
Breck C. Tostevin, Esq.

Signature sheet for the foregoing Federal Facility Agreement for Fort Richardson, among the U.S. Environmental Protection Agency, the U.S. Department of Defense, and the Alaska Department of Environmental Conservation.


CHUCK CLARKE
Regional Administrator
United States Environmental Protection Agency
Region 10

12/5/94
Date:

REPRESENTED BY:

Dean B. Ingemansen, Esq.

ATTACHMENT 1FORT RICHARDSON, ALASKA
U. S. ARMYFEDERAL FACILITY AGREEMENT SCOPE OF WORK1.0 Introduction

The purpose of Attachment 1 is to set forth the elements of work required to be performed in responding to hazardous substance/waste releases, or the threat of such releases, at or from source areas at the U.S. Army's Fort Richardson (referred to collectively here as the Fort) which pose an actual or potential threat to human health or the environment. This document provides the site management approach to implement the remedial response process under the Federal Facility Agreement (the Agreement) entered into by the Army, the State of Alaska Department of Environmental Conservation (ADEC), and the U.S. Environmental Protection Agency (US EPA). The source areas at Fort Richardson have been divided into 4 manageable operable units (OUs). A critical path schedule has been developed for performing the general remedial activities at each OU, and an optimal sequence has been established for addressing each OU. The OUs at Fort Richardson have been divided into three categories of remedial activities:

- Remedial Investigation/Feasibility Study (RI/FS) OUs
- Interim Remedial Action (IRA) OUs
- Preliminary Source Evaluation (PSE) OUs

All response activities performed by Fort Richardson shall be consistent with the Agreement. Figure 1 represents work schedules for completion of the decision process for each identified OU and was developed by the three parties during the Agreement negotiations. The figure depicts starting, interim and completion dates for each OU, and will be updated periodically. Primary document deadlines are enforceable and are contained in Figure 2 of this Attachment.

There are certain source areas (RCRA "units") at Fort Richardson identified in the March 29, 1991 FFCA between EPA and the Army (hereinafter "1991 FFCA") that are subject to RCRA requirements including, but not limited to, interim status closure requirements found at 40 CFR Part 265. The Army, EPA and the State agree that corrective action at the following units which were identified in the 1991 FFCA as subject to RCRA closure requirements will be addressed through CERCLA response actions at operable units ("OUs") under the terms and schedules specified in the FFA: under OU-A: Building 986; OU-C; OB/OD; OU-D: Buildings 700, 704, 35-752, 955, and Circle Road:

The following units will be addressed through a two-party agreement between the State of Alaska and the Army, and when the investigation is complete, they shall be incorporated into the response actions scheduled for either the next available OU or OU-D: Buildings 755 and 45-590.

RCRA requirements at these units shall be addressed through the CERCLA ARARs process specified in the FFA. RCRA public notice and public participation requirements for closure at these units shall be addressed during the CERCLA public notice process specified in the FFA and this Attachment at the time of issuance of the Proposed Plan for that particular OU.

In addition, if a "no-action" decision is made under the FFA and CERCLA for an operable unit which includes units subject to RCRA closure requirements, such units shall remain subject to RCRA closure and post-closure care requirements. The Region 10 RCRA program shall make a final determination whether further closure work under RCRA is necessary with respect to such units.

2.0 Source Area Grouping into Operable Units

125 potential source areas have been identified at Fort Richardson in previous studies, and are listed in Table 1. No further remedial action was selected for 79 of these areas. The basis for these decisions will be contained in the Fort Richardson Administrative Record. The remaining source areas were either placed directly into one of the OU categories, or have been designated for parallel-track actions pursuant to a Two Party Agreement with the Army and ADEC (see section 3.5). The criteria used to group these sources into particular OUs include:

- Availability and sufficiency of previously collected data to support remedy selection
- Similarities of source areas and contaminants
- Complexity and size of source areas
- Affected media, potential for migration, exposure pathways and receptors

Levels of investigation for each source (PSE or RI/FS) per Operable Unit are set out below:

• **Preliminary Source Evaluation**

Motorpools/Maintenance facilities
 Storm drain outfalls to Ship Creek
 Landfill Fire Training Area
 Grease Pit #1
 Grease Pit #2
 Poleline Road Disposal Area
 Bldg. 700-transformer storage area
 Bldg. 704
 Bldg. 726-laundry
 Bldg. 35-752-antenna bldg.
 Bldg. 796 acid disposal area
 Bldg. 955
 Circle Rd. Drum site
 Dust palliative

• **Remedial Investigation/Feasibility Study (RI/FS)**

Roosevelt Road PCB site
 Ruff Road Fire Training Area
 Bldg. 986-FOI lab.
 Eagle River Flats Impact Area
 OB/OD Area, Eagle River Flats

• **Interim Remedial Action (IRA)**

Any appropriate sources may be selected for an IRA. In particular, upon completion of a PSE for OU D the parties will evaluate whether any sources should be addressed by an IRA in accordance with section 3.2 of this Attachment (and applicable provisions of the NCP). An example of a current IRA candidate that will be evaluated by the Project Managers;

- Eagle River Flats

3.0 Description of Remedial Activities leading to ROD

The purpose of remedial activities that lead to a Record of Decision (ROD) is to gather sufficient information to characterize the potential nature and extent of any possible contamination. Depending on the information available these activities may consist of remedial investigations/feasibility studies, preliminary source evaluations, and/or other activities (Figure 3).

3.1 Remedial Investigation/Feasibility Study

The purpose of the remedial investigation/feasibility study (RI/FS) is to investigate the nature and extent of contamination at the Fort Richardson site and to develop and evaluate remedial alternatives, as appropriate. Four RI/FSs are currently planned for Fort Richardson.

The specific RI/FS activities to be conducted during each RI/FS at Fort Richardson are segregated as follows:

- OU specific project planning (e.g., development of a Conceptual Site Model; identification of Data Quality Objectives; integration of proposed activities for the OU with those proposed, or on-going, base-wide and at other OUs)
- revision (if necessary) of the Base-wide Community Relations Plan
- OU specific field investigations
- OU specific sample analysis/validation
- OU specific data evaluation
- OU specific human health risk and ecological assessment.

The OU-specific ecological risk screening assessment will involve an ecological characterization of the source and identify significant ecological exposure pathways. Data gaps identified from OU specific ecological characterization screening studies will be addressed in the last scheduled OU RI/FS to maximize economy of resource utilization. The cumulative effects of specific source area contaminations will also be assessed in the last OU RI/FS.

- OU specific treatability studies
- OU specific RI Report, including Baseline Risk Assessment
- OU specific Remedial Alternatives Development and Screening
- OU specific Detailed Analysis of Alternatives
- OU specific RI/FS Report

To the maximum extent practicable, components of Field Sampling Plans (FSPs), Quality Assurance Project Plans (QAPPs), Work Plans, and Health and Safety Plans (HSPs) approved under an earlier OU submission will be utilized in subsequent submissions to expedite the review process and achieve consistency in the overall remedial action approach.

3.1.1 Eagle River Flats Operable Unit

Due to the complex nature of the contaminant at Eagle River Flats (ERF), preliminary field investigations, technological evaluation and screening activities are ongoing functions that will occur prior to the start of the RI/FS process. The project managers will scope, evaluate, and plan yearly activities. Based on the results of the yearly activities, the project managers may initiate removal or interim remedial actions or begin RI/FS activities as agreed upon.

For the ERF OU, a biological technical assistance group (BTAG) will be created. This group shall consist of representatives from the Federal, State, and local governments who possess technical expertise pertaining to the biological and ecological issues posed by the contamination at ERF. The ERF BTAG will replace the former ERF Task Force upon the signing of the proposed ERF BTAG charter. The ERF BTAG is an independent group of environmental agencies interested in the investigation and remediation of the Eagle River Flats area. The BTAG is separate and apart from the Technical Review Committee, described further in Part VIII(H) of the Fort Richardson Federal Facility Agreement.

The purpose of this group is to afford the governmental agencies a forum in which to share information and review progress regarding the RI/FS and RD/RA process at Eagle River Flats, and other matters of interest that may arise in conjunction with the remediation of the ERF Operable Unit.

3.2 Interim Remedial Actions

The purpose of the interim remedial actions (IRA-OU) at Fort Richardson is to achieve early action using remedial authority at those sources which meet the IRA general principles discussed in the NCP. If at any time the information submitted to support the IRA is found to be equivalent to that obtained during an RI/FS and the OU is separable, then the IRA may be upgraded to an early final action.

The Preamble of the NCP, 55 Fed. Reg. 8703-8706 (March 8, 1990), states that to implement an early action under remedial

authority, an operable unit for which an interim remedial action is appropriate should be identified. IRA decisions are intended for straightforward sites that are limited in scope. Data sufficient to support the action decision is extracted from the ongoing RI/FS or from previous studies and an appropriate set of alternatives is evaluated. Few alternatives, and in some cases only one alternative, should be developed for interim remedial actions. A completed baseline risk assessment generally will not be available or necessary to justify such an action. Qualitative risk information should be organized that demonstrates that the action is necessary to stabilize the site, prevent further degradation, or achieve significant risk reduction quickly. Supporting data, including risk information and the alternatives analysis, can be documented in a focused feasibility study. However, in cases where the relevant data can be summarized briefly and the alternatives are few and straightforward, it may be adequate and more appropriate to document the supporting information in the proposed plan.

3.3 Preliminary Source Evaluations

Preliminary Source Evaluations (PSEs) will be conducted at several source areas to identify whether or not these source areas pose an unacceptable potential risk to public health or the environment. The scope of the PSE is intended to be significantly less than that of an RI/FS.

PSE are primarily intended as screening tools to summarize and evaluate existing information. These evaluations may require data gathering efforts which require focused, but limited, field investigations. This information is used to determine qualitative risk.

Prior to performing a PSE, project managers will meet to scope and identify the pathways from suspected sources of contamination to potential receptors. Based on this scoping, a workplan will then be generated and submitted which establishes appropriate Data Quality Objectives (DQOs), and includes a field sampling plan (FSP) and QAPJP, as needed.

At completion of the PSE, a PSE report containing the findings of the investigation/evaluation shall be submitted to the agencies for review and comment. The Project Managers shall then determine, based on the information presented, the disposition of each of the identified sources, and particularly, which specific source areas (if any) in each OU require follow up action. The decision will be reflected in the administrative record.

There are three management options for sources reviewed in a PSE processes: a) No Further Action (NFA), in terms of planning for FFA remediations (such a decision would not prohibit future activity undertaken pursuant to State authority); b) inclusion in an RI/FS; or, c) recommendation for IRA.

If agreement cannot be reached on source disposition for areas which have undergone the PSE process, those areas will be included in an RI/FS and made subject to dispute resolution. In such an event the rationale leading to the decision shall be documented in the administrative record.

3.4 Base-wide Studies and Other Documents

Base-wide studies/investigations (e.g., for background sampling), or monitoring (e.g., for groundwater monitoring), not specific to particular OUs but necessary for implementation of the Agreement, will be proposed in separate Plans which will include any necessary FSPs and QAPjPs. The Project Managers will determine scheduling for these Plans, and for the follow-up Reports. Both the Plans and Reports shall be secondary documents.

Documents not specified as primary or secondary documents in the Agreement, but that serve to further facilitate the implementation of the remedial process, may be submitted to US EPA and ADEC as interim reports and technical memoranda for review, comment, and/or discussion, upon agreement of all Project Managers. These documents are typically input (or feeder) documents -- such as data interpretation -- to the primary or secondary documents.

3.5 Parallel Track Activity

Certain potential source areas at Fort Richardson, identified in Table 1, will be addressed pursuant to a companion agreement entered into by the Army and the State of Alaska. Generally, these areas are underground storage tanks and other source areas where there are suspected or known releases of petroleum, oil, and/or lubricants (POL).

By a date established by the Project Managers, and at least ninety (90) days prior to submittal of the last OU RI/FS Management Plan, the Army shall provide a report summarizing the status of all source areas listed in Table 1 which have not previously been addressed in a ROD as well as any other source areas discovered during the investigation. Included within this group of source areas will be those areas addressed in the companion agreement (which have not been addressed in earlier RODs). The Project Managers shall review the report, determine

what actions remain to be completed, (e.g. no further action, incorporate into a RI/FS, or continue with the two party action), and decide how best to implement those actions. The Army shall incorporate the Project Managers' decision into the last OU draft RI/FS Management Plan which as a primary document will be subject to dispute resolution (per Part XXI of the Agreement).

3.6 Quarterly Reports

Quarterly reports will be prepared by the Army to describe the technical progress at the Fort Richardson site. Quarterly reports will be submitted to U.S. EPA and ADEC as specified in the Agreement.

3.7 Recommended Training and Qualifications

To effectively and efficiently implement Attachment 1 activities, appropriate training and qualifications for all Parties' Project Managers are necessary. While the following list of training and qualifications is not required or subject to review and approval by any Party, it is recommended that all Project Managers have expertise or obtain training on a timely basis in the following subject areas:

- implementation of the terms and obligations under the Agreement and Attachment 1
- project management (using CPM)
- CERCLA, NCP, and RCRA (including relevant guidance), as they pertain to the Ft. Richardson FFA and Attachment 1
- Superfund remedial investigation and study procedures
- Superfund remedial design/action process
- available remedial action technologies
- OSHA Hazardous Waste Operations (29 CFR 1910.120)
- human health and ecological risk assessment
- public participation

3.8 Decision Process

The decision process leading to the Record of Decision (ROD) is initiated when there is adequate information to select an interim or final remedy for an OU, as determined by the project managers.

Records of Decision will be signed by the following persons: EPA Regional Administrator or his/her designee, ADEC Southcentral Regional Administrator, and the appropriate Army designee. All Proposed Plans and Record of Decisions, public review and comment periods, responsiveness summaries, and other mechanics of the decision process shall follow the NCP, US EPA guidance, and the Fort Richardson Community Relations Plan.

4.0 Description of Post-ROD Remedial Activities

The decision process for each OU ends when the ROD is signed. If the ROD requires remedial action, a Remedial Design (RD) and Remedial Action (RA) Scope of Work (SOW) shall be developed after ROD signature to define schedules for successfully pursuing and completing the design and implementation of the remedy (Fig. 4).

4.1 RD/RA Scoping

Within 21 days of issuance of each OU ROD the Army shall submit to ADEC and US EPA target dates and deadlines for completion of post-ROD documents in an RD/RA SOW. The RD/RA SOW shall establish the overall strategy for managing post-ROD activity, and shall propose a time-optimal way of phasing necessary elements of the remedial design along with the preliminary strategy for conducting the remedial action. At a minimum, this RD/RA SOW shall include:

- a description of each phase, or work element, of the design (including the intended scope of each phase), and the rationales supporting the break-out; in addition, for each RD work element:
 - o a description of the design criteria and assumptions in terms of the technical requirements and performance standards contained in the ROD;
 - o the "critical path" schedule for completion of the design (with identification of necessary secondary document deliverables);
 - o a presentation of the assumptions regarding funding availability, design contractor limitations, and resource needs that have been used to establish the proposed schedules, and will be used in preparing the design;
 - o a description of treatability studies &/or additional field data collection necessary to be

conducted either prior to, or concurrent with, the design; and

- o a description of how projected short term risks associated with implementation of the work element will be assessed.
- the recommended overall RD/RA "critical path" enforceable schedule (through RA work element commencement). The schedule should include a description of the dependency of each RD work element and identification of primary document deliverables;
- anticipated overall post-ROD funding needs (for contractors, e.g.) to complete the remedial design, and funding availability;
- a proposed working schedule for completion of RD activities, and proposals to expedite those activities;
- an outline of suggested modifications to the Community Relations Plan &/or elements of the Plan which will be implemented during RD;
- identification of those secondary documents which are associated with the RD phase (e.g., 35% Design), and target submittal dates; and,
- a description of issues which require resolution or further analysis.

To streamline the RD/RA process, the RD/RA SOW is not defined as a primary document. The Project managers, however, will have 30 days after submittal to invoke dispute resolution (pursuant to Part XXI of the Agreement) regarding its content.

4.2 RD Process

If necessary, the RD/RA SOW will call for the submittal of a 35% Design. The 35% Design will be a secondary document and will be developed to include:

- a description of the scope of all preliminary and/or draft design documents
- a description of documents required for other elements of the design (e.g., Operation and Maintenance (O&M) Plan, Site Health and Safety (H&S) Plan, Quality

Assurance Project Plan (QAPjP)), and schedules for their preparation

- cost estimation for RD
- requirements for correlations between plans and specifications
- identification of substantive permit requirements
- design approval procedures and requirements

Usually, one secondary design document -- the 35% (or, preliminary) Design -- shall be submitted during the RD process. The 35% Design shall include plans and specifications which have been identified in the RD/RA as crucial to an efficacious preliminary review.

A Pre-final Design (95% Design) shall include all aspects of the design, and shall be considered representative of approximately 95% design completion. Resolution of comments on the Pre-final Design, and preparation of reproducible drawings and specifications ready for RD procurement, will constitute the final 5% of the RD (to be submitted in the form of a Draft Final RD). The RD shall include:

- plans/specifications for RA (including design analysis and construction drawings/specifications)
- cost estimation for RA
- appropriate plans (e.g., O&M Plan, QAPjP, Site H&S Plan)
- results of additional required studies, if any
- a summary of ARARs and remediation goals/standards identified in the ROD, and a description of how the RD meets these requirements

4.3 RA Process

The RA Workplan shall incorporate, by reference, pertinent aspects of the Pre-final Design (and/or the RD/RA SOW). In addition, the RA Workplan shall:

- specify all relevant changes (i.e., those changes which will impact RA) between the Pre-final Design and the final RD

- update (and expand upon) the RD/RA "critical path" schedule
- update (and expand upon) the RA cost estimation
- identify all additional RA secondary documents, as necessary

A Prefinal Inspection shall be conducted by the Project Managers, as needed, and possibly an independent fourth party, agreeable to the Project Managers. Following the inspection, the Army will prepare and submit the Prefinal Inspection Report. The Report will be finalized in the context of the RA report, and shall include:

- outstanding construction requirements
- actions required to resolve items
- completion date, and date of final inspection

At the completion of remedial action the Army shall prepare and submit an RA Report. The RA Report shall include:

- consolidation of any and all RA reports for individual work elements
- a brief description of outstanding items from the Prefinal Inspection Report
- synopsis of work discussed in the RA Workplan, and certification that this work was performed
- explanation of any modifications to the RA Workplan
- certification by an independent registered professional engineer that the implemented remedy is both operational and functional
- documentation necessary to support deletion of the site from the NPL

4.4 O&M

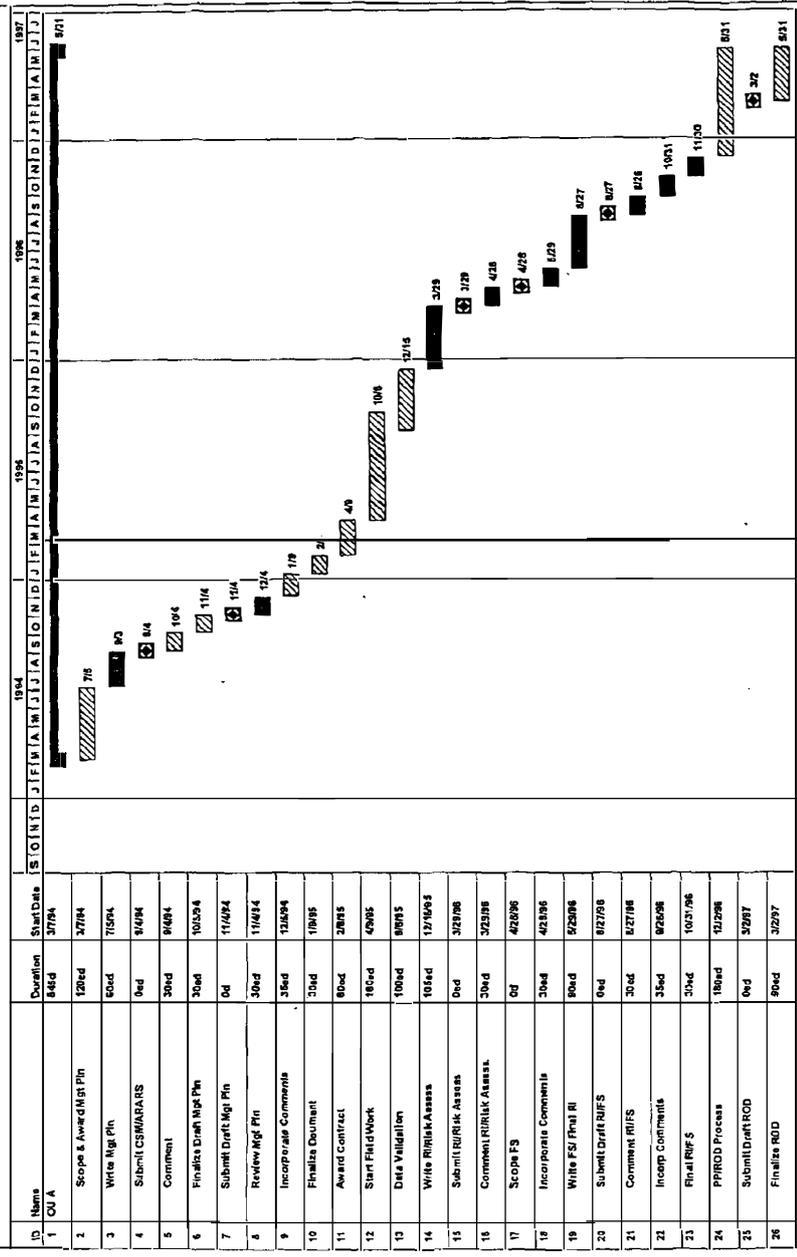
At the completion of O&M activities the Army will prepare and submit an O&M Report. The Report will include:

- consolidation of any and all O&M reports for individual work elements

- description of the O&M activities performed
- results of site monitoring (verifying that the remedy meets the performance criteria)
- explanation of additional O&M (including monitoring) to be undertaken at the site

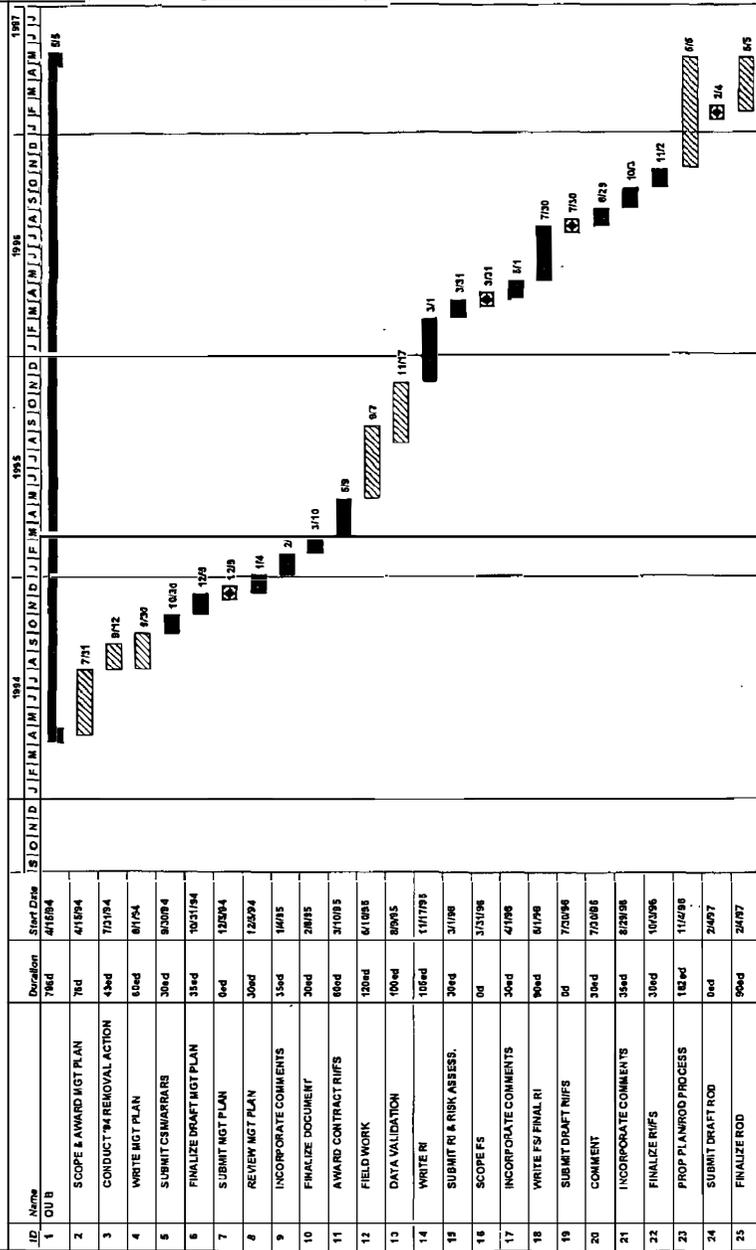
Figure 1.
Timeline

FIGURE 1: FORT RICHARDSON, JKA -- OPERABLE UNIT A



Critical Milestone Summary Safety

FIGURE 1: FORT RICHARDSON, SKA -- OPERABLE UNIT B



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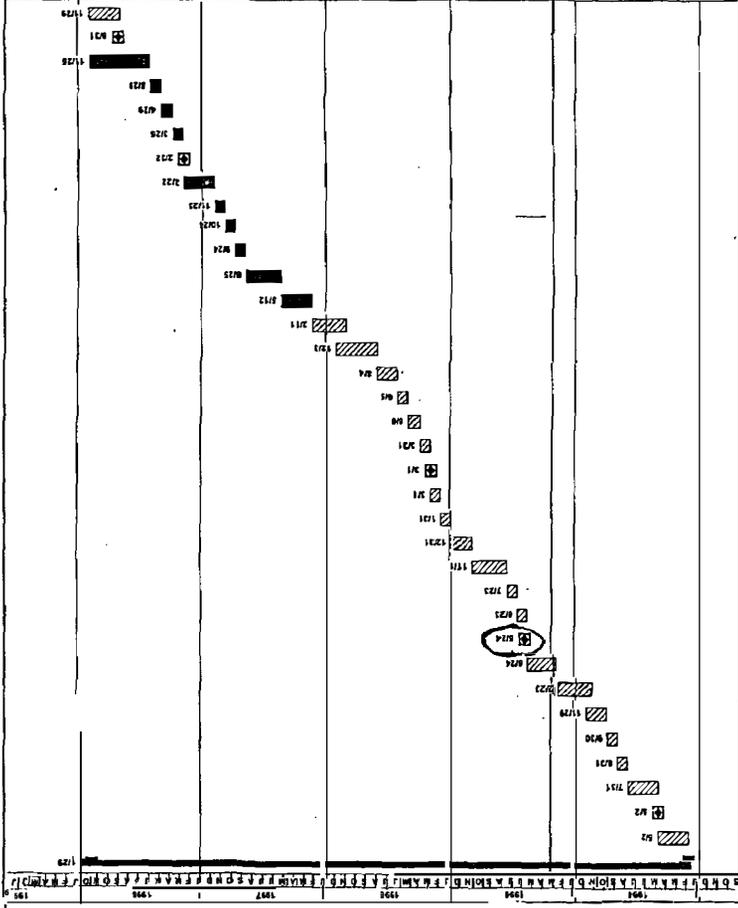
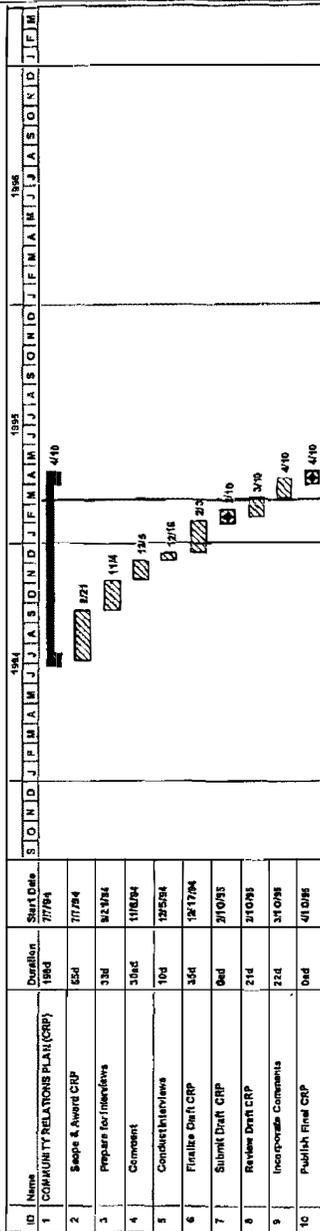


Figure 1: Fort Richardson, A - Operable Unit D

Task ID	Task Name	Start Date	End Date
1	CON D SUMMARY	1997-01-01	1997-01-01
2	SCOPE P&E	1997-01-01	1997-01-01
3	AWARD CONTRACT	1997-01-01	1997-01-01
4	WRITE WORKPLAN	1997-01-01	1997-01-01
5	REVIEW	1997-01-01	1997-01-01
6	INCOMP COMMENTS	1997-01-01	1997-01-01
7	FIELD WORK	1997-01-01	1997-01-01
8	DATA EVALUATION P&E	1997-01-01	1997-01-01
9	WRITE REPORT	1997-01-01	1997-01-01
10	SUBMIT P&E REPORT	1997-01-01	1997-01-01
11	REVIEW	1997-01-01	1997-01-01
12	INCOMP COMMENTS	1997-01-01	1997-01-01
13	SCOPE & AMEND MGT PLAN	1997-01-01	1997-01-01
14	WRITE MGT PLAN	1997-01-01	1997-01-01
15	SUBMIT CSUMMARS	1997-01-01	1997-01-01
16	FINALIZE DRAFT MGT PLAN	1997-01-01	1997-01-01
17	SUBMIT MGT PLAN	1997-01-01	1997-01-01
18	RENEW MGT PLAN	1997-01-01	1997-01-01
19	INTEGRATE COMMENTS	1997-01-01	1997-01-01
20	FINALIZE DOCUMENT	1997-01-01	1997-01-01
21	AWARD CONTRACT	1997-01-01	1997-01-01
22	FIELD WORK	1997-01-01	1997-01-01
23	DATA VALIDATION	1997-01-01	1997-01-01
24	SCOPREVAL BASE WDR ISSUES	1997-01-01	1997-01-01
25	WRITE	1997-01-01	1997-01-01
26	SUBMIT RISK ASSESSMENT	1997-01-01	1997-01-01
27	SCOPE AND AWARD P3	1997-01-01	1997-01-01
28	INTEGRATE COMMENTS	1997-01-01	1997-01-01
29	WRITE P3/FINAL R3	1997-01-01	1997-01-01
30	SUBMIT DRAFT R3	1997-01-01	1997-01-01
31	COMMENT	1997-01-01	1997-01-01
32	INTEGRATE COMMENTS	1997-01-01	1997-01-01
33	FINALIZE R3	1997-01-01	1997-01-01
34	PREP PLANNING PROCESS	1997-01-01	1997-01-01
35	SUBMIT PLANNING PROCESS	1997-01-01	1997-01-01
36	FINALIZE R3	1997-01-01	1997-01-01

FIGURE 1: FORT RICHARDSON, ALAS COMMUNITY RELATIONS PLAN



Callout
 Narrative
 Legend
 Summary
 Summary
 Program
 Milestone

Project:
 Date:
 Page 1 of 1

Figure 1.b. Generic timeline for RI/FS Implementation.

<u>STEP</u>	<u>TIME (days)</u>
1. Contract time (Army)	90
2. Collection of data/info on sites, & development of CSM/DQO/ARAR/TBC document & RI/FS MP (Army)	150
write CSM/DQO/ARAR document & begin other parts of MP	(30)
review CSM doc. internally & continue work on rest of MP	(30)
finalize/re-write CSM document, & continue work on rest of MP	(30)
submit CSM document to prj. managers for review; get comments; & continue work on rest of MP	(30)
re-write MP (including CSM/DQO/ARAR portion of RI)	(30)
3. Internal Army Review of RI/FS MP	30
4. Finalization (internally) of RI/FS MP (Army)	30
5. Review of RI/FS MP (prj. managers)	30
-- then, Army revises MP 30 days after receiving comments, & submits for another (15 day) comment period.	
6. Field sampling/data collection and validation (Army)	420
-- within this timeframe the Army will begin writing the RI Report.	
-- approx. a year into this period the prj. managers will meet for several days to discuss RI data, progress	

- EPA provides Army PP guidance & examples
7. Review of prelim RI info to direct development of Report (Prj. managers) 5
 8. Completion of RI Report, & prelim FS info (Army) 30
 9. Internal Army Review of RI Report 30
 10. Finalization (internally) of RI Report (Army) 30
 11. Review of RI Report (prj. managers) 30
- then, Army revises RI within 30 days & submits for another comment period.
12. FS scoping (prj. managers) 5
 13. Preparation of RI/FS (Army) 30
 14. Internal Army Review of RI/FS 30
 15. Finalization (internally) of RI/FS Report (Army) 20
 16. Review of RI/FS Report (prj. managers) 30
- then, Army revises RI/FS within 30 days & submits for another (15 day) comment period.
17. Finalization of RI/FS, preparation of Proposed Plan, & start of Public Comment period 100
- Preparation of PP "working draft" (Army) (30)
- including a 3 day scoping meeting to develop PP annotated outline & graphics needs (prj. managers and Army contractor) (3)
- Review of PP "working draft" (prj. managers) (5)
- Prj. Managers meet to write 2nd draft of PP (5)

	Review 2nd draft PP; Army, EPA & ADEC	(23)
	Prj. Managers meet to resolve comments on 2nd draft PP & to develop ROD annotated outline (include Army contractor)	(7)
	-- Army should begin preparation of ROD "working draft" at this time	
	Review of draft PP (Army, EPA, ADEC)	(20)
	Army reproduces PP & mails	(10)
18.	Public Comment period & Preparation of Draft ROD	82
	PUBLIC COMMENT PERIOD	(30)
	Review of ROD "working draft" (Prj. managers)	(15)
	-- Army should begin preparation of Responsiveness Summary at this time	
	Prj. Managers meet to discuss "Working draft" of ROD	(7)
	Army prepares draft ROD	(30)
19.	Review of draft ROD & Responsiveness Summary at Army, EPA, & ADEC	30
20.	Prj. Managers meet to resolve draft ROD comments & begin to "brief" internally	7
21.	Army prepares draft Final ROD	23
22.	Parties Review draft final ROD	15
23.	Final ROD concurrence briefs	21
24.	Final ROD due	X

Figure 2
 Primary Document Deadlines

OU-A

<u>Pre-ROD</u>	dates	<u>Post-ROD</u>	dates
Management Plan	11/4/94	Pre-final Design	TBD*
Dft Final RI/FS	8/27/96	RA Work Plan	
Dft ROD	3/2/97	RA Report	
		O & M Plan	
		Close Out Rpt	

OU-B

Management Plan	12/5/94	Pre-final Design	
Dft Final RI/FS	7/30/96	RA Work Plan	
Dft ROD	2/4/97	RA Report	
		O & M Plan	
		Close Out Report	

OU-C

Management Plan	12/13/95	Pre-final Design	
Dft Final RI/FS	8/12/97	RA Work Plan	
Dft ROD	3/17/98	RA Report	
		O & M Plan	
		Close Out Report	

OU-D

Management Plan	3/1/96	Pre-final Design	
Dft Final RI/FS	2/22/98	RA Work Plan	
Dft ROD	8/31/98	RA Report	
		O & M Plan	
		Close Out Report	

* To Be Determined

FORT RICHARDSON HAZARDOUS

WASTE SOURCE AREAS

TABLE (PAGE 1)

SITE #	OU	BLDG/LOC.	SITE FUNCTION	UNIT/ACTIVITY	POTENTIAL CONTAMINANTS	REL.	UST	STATUS	RCRA OR RFA IDENTIFICATION	1990 RFA, SWMU	NOTES & REFS.
W006	A	916	POL LABORATORY DRYWELL	DOL	WASTE OIL, LUBRICANTS, AVIATION FUELS, SOLVENTS, ACID, ALCOHOL, REAGENTS	F	T	RIFS		80	USATHAMA 1991 PROPERTY REPORT AND RCRA FACILITY ASSESSMENT (1996 RFA)
W010	A	01630	ROOSEVELT ROAD TRANSMITTER SITE LEACHFIELD	PW	PCBS IN TRANSFER OIL	T	F	RIFS		116	USATHAMA 1991 PROPERTY REPORT AND 1990 RFA
W040	A	FERRIS UNDER RP (RUFF ROAD)	RUFF ROAD FORMER PPE TRAINING AREA	PW	CONSTRUCTION RUBBLE, P.A. CHLORINATED & MONOCHLOR. SOLVENTS	T	F	RIFS		97	USATHAMA 1991 PROPERTY REPORT AND 1990 RFA
W097	B	U080282	POLELINE ROAD DISPOSAL AREA	PW	DECOL. SOLVENTS, SMOKE CANNISTERS, CYTRINATING MATERIAL	T	F	REMOVAL ACTION AND FURTHER SITE CHARACTERIZATION			NONE
W000	C	EAGLE RIVER FLATS	EAGLE RIVER FLATS IMPACT AREA	DPTSM	MUNITIONS RESIDUE, WHITE PHOSPHORUS, ROCKETS, MISSILES, TORPEDOES	T	F	RIFS		117	USATHAMA 1991 PROPERTY REPORT AND 1990 RFA
W025	C	MC EAGLE RIVER FLATS	OPEN BURST OPEN OBLIO AREA	MULTIPLE UNIT/ACTIVITIES	POWDER BAGS, FUEL, TNT, GRENADES, ROCKETS, PROJECTILES, ASK	F	F	RCRA CLOSURE		89	USATHAMA 1991 PROPERTY REPORT AND 1990 RFA
W009	D	710	FORMER ORDNANCE STORAGE AREA	PW	PCBL, WASTE PAINT, HYDRO-FLUORIC ACID, METHYL ETHYL KETONE, MINERAL OILS	F	F	PSE 2 & RCRA CLOSURE		1-91	USATHAMA 1991 PROPERTY REPORT AND 1990 RFA
W033	D	704	FORMER ROADS AND CONDUIT STORAGE & WASTE ACCUMULATION AREA	PW	ORGANIC FUELS, WASTE PAINT, BRASS FUSION, LUBRICANTS, COOLANTS, WAX, WASTE SOLVENT, ASBESTOS	T	T	PSE 2 & RCRA CLOSURE		3-4	1990 RFA
W016	D	728	FORMER LAUNDRY & DRY-CLEANING UNIT	DOL	PERCHLOROTRYFENE, SLUDGE	T	T	PSE 2		9, 10, 11, 12, 13, 14, 16, 100	USATHAMA 1991 PROPERTY REPORT AND 1990 RFA
W059	D	796	DOL BATTERY AREA - FORMER BATTERY ACID DISPOSAL SITE	DOL	NEUTRALIZED BTRY ACID, HEAVY METALS	T	T	PSE 2		37	1990 RFA
W060	D	865	USED OIL TRANSFER AREA (SLUDGE BIN)	DOL	USED OIL/FUEL	T	T	RCRA CLOSURE		41	1990 RFA
W023	D	33552	FOR BITUMENT (ANTENNA BLDG)	PW	PCBL, POL.	F	T	RCRA CLOSURE (INSIDE BLDG), CERCLA PSE 2 OUTSIDE		90	USATHAMA 1991 PROPERTY REPORT AND 1990 RFA
W022	D	41590	MOTOR POOL	CENTRAL TEXAS COLLEGE	WASTE OIL, LUBRICANTS, ANTIFREEZE, ACID, SOLV.	F	T	RCRA CLOSURE		83	USATHAMA 1991 PROPERTY REPORT AND 1990 RFA

3/2/95 FORT RICHARDSON HAZARDOUS WASTE SOURCE AREAS TABLE NGE 1)

SITE #	OU	BDOJ DOC	SITE FUNCTION	UNTHACTIVITY	POTENTIAL CONTAMINANTS	REL UST	STATUS	IFA OR IFA JUSTIFICATION	1990 IFA GWUJ	NOTES & REFS.
W028	D	FRA R04	DUST PALLIATIVE	PW	WASTE OIL, SOLVENT	F	PSE 2			USATAMA 1981 PROPERTY REPORT
N080	D	UC03846	CIRCLE ROAD DRUM SITE	PW	POL	T	RCRA CLOSURE			NONE
W015	D	FRA LANDFILL (EAST SIDE)	LANDFILL FORMER FIRE TRAINING AREA	PW	OIL, SOLVENT, TRANSPARENT WATER CONTAINING DIESEL, IPA	T	PSE 1		98	USATAMA 1981 PROPERTY REPORT AND IFA RFA
R072	D	FRA LANDFILL (EAST SIDE) APPROX 1000' W of FF PIT #2	GREASE PIT #1	PW	COOKING GREASE, PETROLEUM, GREASE/OIL, OIL SEDIMENT SEPARATOR BOTTOMS, FUELS, WATER, ETHYL GLYCOL	F	PSE 2		92	1990 RFA
R073	D	FRA LANDFILL (EAST SIDE) APPROX 1000' W of FF PIT #2	GREASE PIT #1	PW	COOKING GREASE, PETROLEUM, GREASE/OIL, OIL SEDIMENT SEPARATOR BOTTOMS, FUEL TANK WATER, ETHYL GLYCOL	F	PSE 2		95	1990 RFA
R075	D	FRA	STORM DRAINAGE OUTFALL TO SHIP CREEK	PW	OILS, FUELS, SOLVENTS	F	PSE 2		115	1990 IFA
R037		T55	AUTO & CRUFT SHOP	OPCA	WASTE PAINTS, GREASE, METAL SPILLS, OIL	F	RCRA CLOSURE	PROPOSED NON-UST TWO-PARTY SITE	27.72	1990 RFA
N095		764	CANNULATION YARD	DOL		F		PROPOSED NON-UST TWO-PARTY SITE		DRAFT ECA, DEC 93
W021		4191	AIRCRAFT MAINTENANCE FACILITY	9172 AMVCO	DRY-CLEAN SOLV, GREASE (HYDRAULIC FLUID), METHYL ETHYL KETONE, NAPHTHA, WASTE FUELS/OIL	T		PROPOSED NON-UST TWO-PARTY SITE	97	USATAMA 1981 PROPERTY REPORT
W046		BLOG 3400 (UPPER SITE AND LOWER SITE SUMMIT)	FORMER NME MISSILE SITE	PW	WATER W/RESIDUAL SOLV, FUELS, RADIOACTIVE MATERIAL, ASBESTOS	F		PROPOSED NON-UST TWO-PARTY SITE		USATAMA 1981 PROPERTY REPORT
W064		604	MEDICAL LAB	MEDICAL ACTIVITY	FIXATIVE W/ SOLVER, METHYL METHACRYLATE, REAGENTS	F	IFA	NO REPORTED SPILLS - WASTE GENERATED INSIDE BLDG. MEDICAL LAB REAGENT DISCHARGES INTO SANITARY SEWER SYSTEM		USATAMA 1981 PROPERTY REPORT
R058		710	PAINT SHOP SPRAY BOOTH	PW	WASTE PAINT	F	IFA	RELEASES TO SOIL - SURFACE WATER OR GROUND WATER UNLESS UNIT LOCATED INCREASE ON THIRD FLOOR. FILTERS CAPTURE AIR RELEASES.	2	1990 RFA
R054		704	ROADS AND ROADS WASH RACK SUMP AND CUM WATER SEPARATOR	PW	WASH WATER MUD, GREASE, DIRT	F	IFA	UNIT IN GOOD CONDITION WITH LOW POTENTIAL FOR RELEASES.	5.6	1990 RFA
N022		7108	SELF-HELP SHOP	PW	POLYMER PAINT, SOLVENTS	F	IFA	NO REPORTED RELEASES TO SOIL, AIR OR GROUND WATER.		NONE

FORT RICHARDSON HAZARDOUS WASTE SOURCE AREAS

NCEWASTE SOURCE AREAS

SITE #	OU	BUILDG LOC	SITE FUNCTION	UNACTIVITY	POTENTIAL CONTAMINANTS	REL. USE	STATUS	NFA OR NFA JUSTIFICATION	UNIT IN GOOD CONDITION WITH LOW POTENTIAL FOR RELEASES.	USDA RFA NUMBER	NOTES & REFS.
W026		710	AMPS SERVICE STATION	AMP #6	WASTE OIL	F T	NFA	UNIT IN GOOD CONDITION WITH LOW POTENTIAL FOR RELEASES.	7	190 RFA	
W027		121	PESTICIDE STORAGE AREA	PW	INSECTICIDES, HERBICIDES, AXCIDES, RODENTICIDES, PAINT, DDT, INHIBIT	F F	NFA	NO REPORTS OF AS, WASTE, SOLVENTS, WASTE BULK, WASTE MATERIALS CHANGES INTO SANITARY SEWER SYSTEM.	8	USATHAMA 1981 PROPERTY REPORT AND 190 RFA	
W028		722	MOTOR POOL	613 EN BN	WASTE OIL, LUBRICANTS, ANTI-FREEZE, ACID, SOLV	T T	NFA	1ST TWO PARTY SITE, NO OTHER REPORTED RELEASES TO AIR, SOIL OR GROUND WATER	19, 71	USATHAMA 1981 PROPERTY REPORT AND 190 RFA	
W029		740	FORMER PAINT BOOTH	PW	WASTE PAINTS, SOLVENTS	F F	NEA	NO REPORTED RELEASES TO SOIL, AIR, OR GROUND WATER.		GROUP FOUR, DEC 70	
W019		740	MAINTENANCE SHOP, WASHRACK & LOW SEP.	PW	OLIOGREASE FROM WASH	F T	NFA	DUO TO SUFFICIENT CONTROLS & SMALL QUANTITIES GENERATED, UNLIKELY FOR RELEASES TO OIL, SW, OR AIR.	17, 18, 19	USATHAMA 1981 PROPERTY REPORT AND 190 RFA	
W018		750	MOTOR POOL, WASHRACK & LOW SEP.	FOR LUBRIC 117 IN BN	OLIOGREASE FROM WASH	F T	NFA	DUO TO SUFFICIENT CONTROLS & SMALL QUANTITIES GENERATED, UNLIKELY FOR RELEASES TO OIL, SW, OR AIR.	20, 21, 22, 23, 24	USATHAMA 1981 PROPERTY REPORT AND 190 RFA	
W018		760	MOTOR POOL, WASHRACK & LOW SEP.	1,801 IN BN	OLIOGREASE FROM WASH	F T	NFA	DUO TO SUFFICIENT CONTROLS & SMALL QUANTITIES GENERATED, UNLIKELY FOR RELEASES TO OIL, SW, OR AIR.	20, 21, 22, 23, 24	USATHAMA 1981 PROPERTY REPORT AND 190 RFA	
W020		754	OWY SEPARATOR	POST CAR WASH	WASH WATER, WOL, GREASE, FUEL	T F	NFA	UNIT IN GOOD CONDITION WITH LOW POTENTIAL FOR RELEASES.	35	1900 RFA	
W018		756	MOTOR POOL, WASHRACK & LOW SEP.	4-11 FA BN	OLIOGREASE FROM WASH	F T	NFA	DUO TO SUFFICIENT CONTROLS & SMALL QUANTITIES GENERATED, UNLIKELY FOR RELEASES TO OIL, SW, OR AIR.	30, 31, 72	USATHAMA 1981 PROPERTY REPORT AND 190 RFA	
W034		764	MOTOR POOL	SP TRPS BN	WASTE OIL, LUBRICANTS, ANTI-FREEZE, ACID, SOLV.	F F	NFA	DUO TO SUFFICIENT CONTROLS & SMALL QUANTITIES GENERATED, UNLIKELY FOR RELEASES TO OIL, SW, OR AIR.		NONE	
W032		776	MOTOR POOL	108 AI BN	WASTE OIL, LUBRICANTS, ANTI-FREEZE, ACID, SOLV.	F T	NFA	DUO TO SUFFICIENT CONTROLS & SMALL QUANTITIES GENERATED, UNLIKELY FOR RELEASES TO OIL, SW, OR AIR.	75		
W009		772	IN-SERVICE TRANSFORM.	PW	POSSIB TRANSFORM OIL	F T	NFA	TRANSFORMER UNDER REPAIR, BUILDING SURF HEAVY CONCRETE CURBED AROUND TRANSFORMER, TO CONTAIN SPILLS. NO FLOOR DRAIN		USATHAMA 1981 PROPERTY REPORT	
W018		776	MOTOR POOL, WASHRACK & LOW SEP.	6 503 BN	OLIOGREASE FROM WASH	F T	NFA	DUO TO SUFFICIENT CONTROLS & SMALL QUANTITIES GENERATED, UNLIKELY FOR RELEASES TO OIL, SW, OR AIR.	31, 76	USATHAMA 1981 PROPERTY REPORT AND 190 RFA	
W018		782	VEL WASHRACK & LOW SEP.		OLIOGREASE FROM WASH	F T	NFA	DUO TO SUFFICIENT CONTROLS & SMALL QUANTITIES GENERATED, UNLIKELY FOR RELEASES TO OIL, SW, OR AIR.		USATHAMA 1981 PROPERTY REPORT	

TABLE (GE 1)

ACEWASTE SOURCE AREAS

FORT RICHARDSON HAZARDOUS

3/2/85

STEP	OU	BLDG LOC.	SITE FUNCTION	UNSATFACTV	POTENTIAL CONTAMINANTS	REL. USE	STATUS	1#&OR NFA JUSTIFICATION	1000 RFA SWM#	NOTES AREAS
	W018	714	MOTOR POOL, WASHRACK & CON SEP.	200 F58	OLIOGREASE FROM WASH	F T	NFA	DUO TO SUFFICIENT CONTROLS & SMALL QUANTITIES GENERATED, UNLIKELY FOR RELEASES TO GW, SW, OR AIR.	32, 77	USATHAMA 1981 PROPERTY REPORT AND 1980 RFA
	W001	719	ESGS MAINTENANCE FACILITY	300 F58	TCE, WASTE SOLVENT/OIL, GREASE, PAINT, ACID	F F	NFA	DUO TO SUFFICIENT CONTROLS & SMALL QUANTITIES GENERATED, UNLIKELY FOR RELEASES TO GW, SW, OR AIR.	78	USAF WAW 1991 PROPERTY REPORT AND 1980 RFA
	W018	720	VEH WASHRACK & CON SEP.	DOL	OLIOGREASE FROM WASH	F T	NFA	UNIT IN GOOD CONDITION WITH LOW POTENTIAL FOR RELEASES.	31	USATHAMA 1981 PROPERTY REPORT AND 1980 RFA
	R059	726	SPRAY PAINT Booth AND VEHICLE WEAPONS SHOP	DOL	ENAMEL/CARC PAINT FUME	F T	NFA	DUO TO SUFFICIENT CONTROLS & SMALL QUANTITIES GENERATED, UNLIKELY FOR RELEASES TO GW, SW, OR AIR.	36	1980 RFA
	W001	718	OSGS MAINTENANCE	3# MAMMT CO MAIN FAC	TCE, WASTE SOLVENT/OIL, GREASE, PAINT, ACID	F T	NFA	DUO TO SUFFICIENT CONTROLS & SMALL QUANTITIES GENERATED, UNLIKELY FOR RELEASES TO GW, SW, OR AIR.	71	USATHAMA 1981 PROPERTY REPORT AND 1980 RFA
	W011	802	SUPPLY WAREHOUSE	MULTIPLE UNITS/ACTIVITIES	SOLVENTS WASTE OIL, REAGENTS, PHOTO EMATIVE, WASTE FROM THIRUM BATTERIES, INVERTER P&S	F F	NFA	NO REPORTED SPILLS, WASTE GENERATED INSIDE BLDG, WASTE WATER DISCHARGES INTO SANITARY SEWER SYSTEM.		USATHAMA 1981 PROPERTY REPORT
	W013	802	RAD. MAT'L STORAGE	MULTIPLE UNITS/ACTIVITIES	POB-37, KRYPTON 88, PROMETHIUM-147, TRITIUM, RADIUM	F F	NFA	NO REPORTED SPILLS, WASTE GENERATED INSIDE BLDG, WASTE WATER DISCHARGES INTO SANITARY SEWER SYSTEM.		USATHAMA 1981 PROPERTY REPORT
	W011	804	SUPPLY WAREHOUSE	MULTIPLE UNITS/ACTIVITIES	SOLVENTS WASTE OIL, REAGENTS, PHOTO EMATIVE, WASTE FROM THIRUM BATTERIES, INV METALS	F F	NFA	NO REPORTED SPILLS, WASTE GENERATED INSIDE BLDG, WASTE WATER DISCHARGES INTO SANITARY SEWER SYSTEM.		USATHAMA 1981 PROPERTY REPORT
	W012	804	RAD. MAT'L STORAGE	MULTIPLE UNITS/ACTIVITIES	POB-37, KRYPTON 88, PROMETHIUM-147, TRITIUM, RADIUM	F F	NFA	NO REPORTED SPILLS, WASTE GENERATED INSIDE BLDG, WASTE WATER DISCHARGES INTO SANITARY SEWER SYSTEM.		USATHAMA 1981 PROPERTY REPORT
	W018	812	MOTOR POOL, WASHRACK & CON SEP.	HC181 E85	OLIOGREASE FROM WASH	F T	NFA	DUO TO SUFFICIENT CONTROLS & SMALL QUANTITIES GENERATED, UNLIKELY FOR RELEASES TO GW, SW, OR AIR.	48, 88	USATHAMA 1981 PROPERTY REPORT AND 1980 RFA
	W003	903	PRINT SHOP/PHOTO LAB	DOM	GREASE, MINERAL SPIRITS, OIL, SOLV, INK, S, LIVER, BAGS	F T	NFA	NO REPORTED SPILLS, WASTE GENERATED INSIDE BLDG, WASTE WATER DISCHARGES INTO SANITARY SEWER SYSTEM.		USATHAMA 1981 PROPERTY REPORT
	W018	974	VEH WASHRACK & CON SEP.	DOL	OLIOGREASE FROM WASH	F T	NFA	UNIT IN GOOD CONDITION WITH LOW POTENTIAL FOR RELEASES.	48	USATHAMA 1981 PROPERTY REPORT AND 1980 RFA
	R081	974	SFER SHOP	DOL	USED OIL/SOLVENTS, OIL/CONTAMINATED SOLV, ANTI FREEZE, GREASE, POTASSIUM HYDROXIDE, WASTE WATER, TRICHLOROETHANE, IRON FLUID, COPRAL OIL/RESIN	F T	NFA	NO EVIDENCE OF RELEASE TO GROUND, AIR, OR GROUND WATER.	41	1980 RFA
	R002	974	SFER SHOP - WASTE BOUVENT (TCE) ACCUMULATION AREA	DOL	TCA	F T	NFA	RELEASE TO GROUND OR SURFACE WATER UNLIKELY DUE TO STORAGE OF SPENT SOLVENT DRUM BACK ON A CONCRETE BASH.	45	1980 RFA

SITE #	OU	BLDG/LOC.	SITE FUNCTION	UNIT/ACTIVITY	POTENTIAL CONTAMINANTS	REL.	U.S.T.	STATUS	NFA OR NFA JUSTIFICATION	1990 RFA BYMMU	NOTES & REF.
R051		974	FUEL BLUET CLING AREA	DOL	WASHWATER W/FUEL, DETERG.	F	T	NFA	NO EVIDENCE OF RELEASE TO SOIL, AIR, OR GROUND WATER; SURFACE OF CLEANING AREAS IS COATED CONCRETE W/CURB.	48, 47	1990 RFA
W016		976	ELECTRONICS MAINTENANCE SHOP, VEH WASH RACK & OIL SEP.		OIL/GREASE FROM WASH	F	T	NFA	DUE TO SUFFICIENT CONTROLS & SMALL QUANTITIES GENERATED, UNLIKELY FOR RELEASES TO GW, SW, OR AIR.	50, 51, 98	USATHAMA 1991 PROPERTY REPORT AND 1990 RFA
R065		978	MAINT SHOP, AC'D BATHWK	DOL	WASTE ACIDS	F	T	NFA	UNIT LOCATED INSIDE BUILDING; NO REPORTED RELEASES TO SOIL, AIR, OR GROUND WATER; UNIT INACTIVE SINCE 1973; UNIT HAS BEEN REMOVED.	56	1990 RFA
R096		976	MAINT SHOP, FIB GLAS FLT.	DOL	FIBERGLASS PARTICLES	F	T	NFA	FILTERS LOCATED INSIDE ALUMINUM BOX INSIDE BUILDING; NO REPORTED RELEASES TO SOIL, AIR, OR GROUND WATER.	67	1990 RFA
R067		978	PHOTO LAB, SILVER RECOV.	DPTSM	HYPO SOLUTION	F	F	NFA	SELF-ENCLOSED UNIT INSIDE BUILDING; NO REPORTED RELEASES TO SOIL, AIR, OR GROUND WATER.	55	1990 RFA
R096		978	TASC PAINT SPRAY BOOTH	DPTSM	WASTE PAINTS	F	F	NFA	UNIT LOCATED INSIDE BUILDING; NO REPORTED RELEASES TO SOIL, AIR, OR GROUND WATER.	56	1990 RFA
W031		988	RETAIL FUEL STORAGE YD	DOL	DIESEL FUEL, GASOLINE	F	T	NFA	NO EVIDENCE OF RELEASE TO SOIL, AIR, OR GROUND WATER;		USATHAMA 1991 PROPERTY REPORT
R078		27000	MOORE RUM OIL F CRSE	DPCA	GREASE, OIL	F	F	NFA	DUE TO SUFFICIENT CONTROLS & SMALL QUANTITIES GENERATED, UNLIKELY FOR RELEASES TO GW, SW, OR AIR.	81	1990 RFA
W048		78003	WATER TREATMENT PLANT	PW	FILTER BACKWASH WATER, SETTLED SLUDGE, FUEL OIL	F	F	NFA	SUBJECT TO NPDES PERMIT MONITORING		USATHAMA 1991 PROPERTY REPORT
W028		58912	CENT. HEAT & PWR PLANT/WASTE ACCUM. AREA	PW	DIESEL FUEL, COAL, FLY ASH	Y	T	NFA	SINCE UNIT IS COVERED, PAVED, AND HANDLED SMALL QUANTITIES OF WASTE, RELEASE TO GROUND WATER OR SURFACE WATER UNLIKELY.	95, 104-114	USATHAMA 1991 PROPERTY REPORT AND 1990 RFA
W027		38013	CLASSIFIED WASTE INCIN.		CLASSIFIED WASTE, ASH	T	T	NFA	DUE TO ABSENCE OF HAZARDOUS CONSTITUENTS IN WASTES, NO POTENTIAL FOR HARMFUL RELEASES.	103	USATHAMA 1991 PROPERTY REPORT AND 1990 RFA
R099		45010	BOAT SHOP	DPCA	ANTIFREEZE, DRY CLEAN SOLVENT, OIL, PAINT THINNER	F	F	NFA	DUE TO SUFFICIENT CONTROLS & SMALL QUANTITIES GENERATED, UNLIKELY FOR RELEASES TO GW, SW, OR AIR.	82	1990 RFA
W022		45123	HAZ WASTE STORAGE FAC.	PW	WASTE SOLVENT/OIL/PAINT FUEL PCB-CONTAIN. MATERIAL	F	F	NFA	INVESTIGATE IAW RCRA PERMITTING PROCESS	55	USATHAMA 1991 PROPERTY REPORT AND 1990 RFA
R071		45133	HAZ WASTE STORAGE AREA	PW	CONTAM. BOLS (OIL/FUEL)	F	F	NFA	INVESTIGATE IAW RCRA PERMITTING PROCESS	89	1990 RFA
N061		45703	176 EOD MAINT FAC	176 EOD		F	F	NFA	DUE TO SUFFICIENT CONTROLS & SMALL QUANTITIES GENERATED, UNLIKELY FOR RELEASES TO GW, SW, OR AIR.		NONE

FORT RICHARDSON HAZARDOUS WASTE SOURCE AREAS

TABLE NGE 1)

SITE #	DU	BLDG LOC.	SITE FUNCTION	UNITS/ACTIVITY	POTENTIAL CONTAMINANTS	REL	UST	STATUS	IFA OR IFA JUSTIFICATION	1990 RFA 6/9/04	NOTES & REFS.
W041		FRA	ABOVE GROUND STORAGE TANKS	MULTIPLE UNITS/ACTIVITIES	DIESEL, GASOLINE, ATING OIL	F	T	IFA	SUFFICIENT CONFIDENTIAL PLACE, NO EVIDENCE PAST RELEASES		USUTAHAMA 1991 PROPERTY REPORT
W042		FRA	ABOVE GROUND STORAGE TANKS	MULTIPLE UNITS/ACTIVITIES	DIESEL, GASOLINE, ATING OIL	F	T	IFA	SUFFICIENT CONFIDENTIAL PLACE, NO EVIDENCE PAST RELEASES		USUTAHAMA 1991 PROPERTY REPORT
W043		FRA	UNDERGROUND STORAGE TANKS	MULTIPLE UNITS/ACTIVITIES	DIESEL, GASOLINE, WASTE OIL	T	T	IFA	SUBJECT TO LIST TWO-PARTY AGREEMENT	7, 16, 19, 23, 24, 26, 29, 30, 35, 39, 39, 47, 48, 52, 61, 63, 66, 68, 69, 70, 110, 120	USUTAHAMA 1991 AND 1990 RFA
W044		FRA	FORMER USES	MULTIPLE UNITS/ACTIVITIES	DIESEL, GASOLINE, FUEL OIL	T	T	IFA	SUBJECT TO LIST TWO-PARTY AGREEMENT		USUTAHAMA 1991 PROPERTY REPORT
W045		FRA	FORMER USES	MULTIPLE UNITS/ACTIVITIES	WASTE OIL, FUEL OIL	T	T	IFA	SUBJECT TO LIST TWO-PARTY AGREEMENT		USUTAHAMA 1991 PROPERTY REPORT
R078		FRA	SANITARY SEWER SYSTEM	PW	SANITARY/INDUSTRIAL WASTEWATER, WOODS GARBAGE	F	F	IFA	SUBJECT TO NPDES PERMIT MONITORING	116	1990 RFA
W032		LANDFILL #1, east sector of FRA LF 1, 100 acres	LANDFILL	PW	SANITARY WASTE, WASTE CLARIFIER FLUID, PESTICIDES	T	F	IFA/UNDER CERCLA	PENDING CLOSURE	8, 15	USUTAHAMA 1991 PROPERTY REPORT AND 1990 RFA
W033		LANDFILL #2, north-central sector of FRA LF 1, 318 acres	LANDFILL	PW	SAN. WASTE, UNKNOWN	F	F	IFA/UNDER CERCLA	PENDING CLOSURE		USUTAHAMA 1991 PROPERTY REPORT
W034		LANDFILL #3, south-central sector of FRA LF 1, 90 acres	LANDFILL	PW	SAN. WASTE, UNKNOWN	F	F	IFA/UNDER CERCLA	PENDING CLOSURE		USUTAHAMA 1991 PROPERTY REPORT
W035		LANDFILL #4, southwest sector of FRA LF 1, 100 acres	LANDFILL	PW	CONSTRUCTION DEBRIS	F	F	IFA/UNDER CERCLA	PENDING CLOSURE		USUTAHAMA 1991 PROPERTY REPORT
W036		LANDFILL #5, northwest sector of FRA LF 1, 3 acres	LANDFILL	PW	CONSTR. DEBRIS, SANITARY WASTE, METAL WOOD, ASBESTOS, EXPLOSIVES, INFECTIOUS WASTE	F	F	IFA/UNDER CERCLA	PENDING CLOSURE		USUTAHAMA 1991 PROPERTY REPORT
W037		LANDFILL #6, west edge of FRA LF 1, unit site	LANDFILL	PW	UNKNOWN	F	F	IFA/UNDER CERCLA	PENDING CLOSURE		USUTAHAMA 1991 PROPERTY REPORT
W038		LANDFILL #7, adjacent to old Devil Highway (i.e. Anchorage LT)	LANDFILL	PW	SANITARY WASTE	F	F	IFA/UNDER CERCLA	PENDING CLOSURE		USUTAHAMA 1991 PROPERTY REPORT

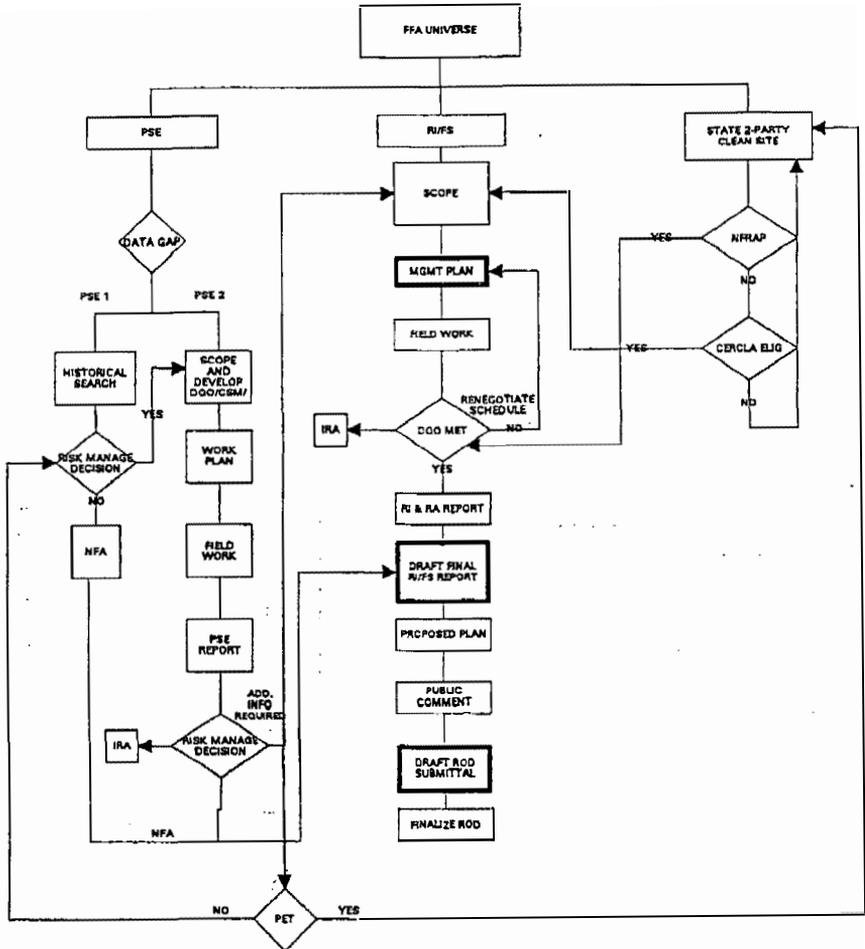
TABLE (PAGE 1)

FORT RICHARDSON HAZARDOUS WASTE SOURCE AREAS

3/3/95

SITE #	CDU	REG. LOC.	SITE FUNCTION	UNTHREATENED	POTENTIAL CONTAMINANTS	REL. LIST	STATUS	NPAA/ NPA JUSTIFICATION	1990 RFA BIN#	NOTES & REFS.
W038		LANDFILL (R-4) to old Dwyer/Olson Highway, approx. 3.0 mi from active site	LANDFILL	PW	HAZARDOUS WASTE, M.L. JUNK	F	NFA UNDER CERCLA	PENDING CLOSURE		USATHAMA 1991 PROPERTY REPORT
W099		UC153803	RY BRAND TRANSFORMER SITE (MC OVER LANE)	PW	POB. METALS	F	NFA	CONTAMINANTS BELOW EPA ACTION LEVELS		USATHAMA 1991 REPORT, JUN 94
W020		AMMO HOLDING AREA	AMMO SUPPLY POINT	DDL	AMMUNITION	F	NFA	AMMO SECURED IN STEEL CONCRETE BUNKERS. NO KNOWN RELEASES WITHIN ASP COMPOUND.		USATHAMA 1991 PROPERTY REPORT
R074		VC. UC377959	TRANSFER STATION	PW	FRA SOLID WASTE, ASBESTOS	F	NFA	NO REPORTED RELEASES TO SOIL, AIR, OR GROUNDWATER.	90	1990 RFA

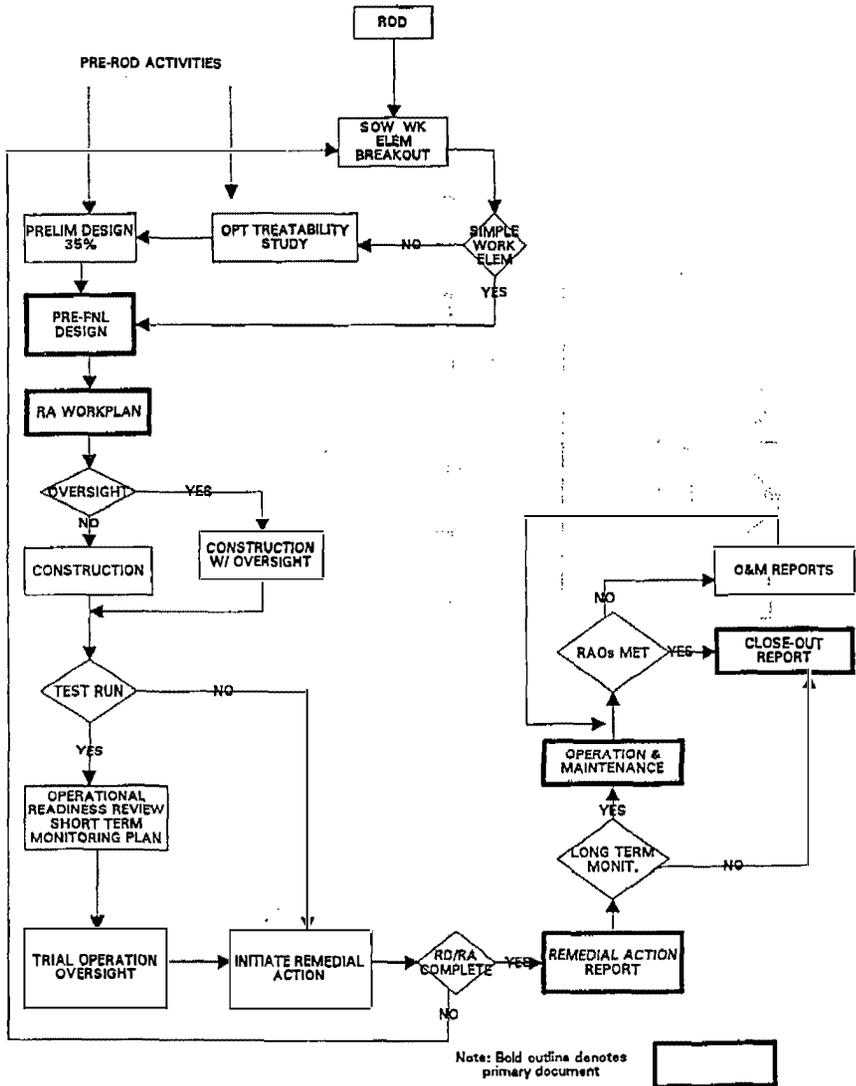
**FIGURE 3
PRE-ROD
ACTIVITIES**



Note: Bold outline denotes primary document



**FIGURE 4
POST-ROD ACTIVITIES**



ATTACHMENT E

HAZARDOUS WASTE MANAGEMENT FACILITY PERMIT

U.S. Environmental Protection Agency, Region 10
Office of Waste and Chemicals Management (WCM-121)
RCRA Permits Team
1200 Sixth Avenue
Seattle, Washington 98101
(206) 553-1253

Issued in accordance with the Resource Conservation and Recovery Act (RCRA) as amended, 42 U.S.C. § 6901 et. seq., and the Hazardous and Solid Waste Amendments of 1984 (HSWA), and the regulations promulgated thereunder in Title 40 of the Code of Federal Regulations (CFR) Parts 124 and 260 through 271.

ISSUED TO: UNITED STATES AIR FORCE (USAF)
Elmendorf Air Force Base, AK 99506-3240
EPA I.D. No.: AK8 57002 8649

This permit is effective as of December 15, 2003 and shall remain in effect until December 15, 2013, unless revoked and reissued under 40 CFR § 270.41, or terminated under 40 CFR § 270.43, or continued in accordance with 40 CFR § 270.51(a). This permit will be reviewed five (5) years after the date of issuance, in accordance with Section 3005(c)(3) of RCRA, 42 U.S.C. § 6925(c)(3), and 40 CFR § 270.50, and will be modified as necessary to ensure that the facility continues to comply with the currently applicable requirements of Sections 3004 and 3005 of RCRA, 42 U.S.C. §§ 6924 and 6925.

ISSUED BY: The U.S. ENVIRONMENTAL PROTECTION AGENCY



Richard Albright, Director
Office of Waste and Chemicals Management
U.S. Environmental Protection Agency, Region 10

Date 11/14/03

PART B PERMIT CERTIFICATION [40 CFR § 270.11(d)(1)]

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision according to a system designed to ensure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

Robertus C. N. Remkes, Colonel, USAF

Name (Print)

Commander, 3rd Wing

Title



Signature

21 Feb 03

Date

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ATTACHMENTS

The following Attachments describing specific requirements from the Permittee's RCRA permit application are hereby incorporated as enforceable conditions of this permit. In the event of any inconsistencies between a permit condition and an Attachment, the permit condition shall prevail.

Attachment 1 – Facility Description

Attachment 2 – Waste Analysis Plan

Attachment 3 – Personnel Training Outline

Attachment 4 – Hazardous Waste Contingency Plan

Attachment 5 – Closure Plan for the TSDF

Attachment 6 – TSDF Plans and Specifications

Attachment 7 – Procedures to Prevent Hazards

Attachment 8 – Corrective Action for Solid Waste Management Units

Attachment 9 – Federal Facility Agreement

(intentionally blank)

INTRODUCTION

Permittee: U.S. Air Force

EPA ID Number: AK8 57002 8649

Pursuant to the Resource Conservation and Recovery Act of 1976, as amended, 42 U.S.C. § 6901 et. seq., (RCRA), and the Hazardous and Solid Waste Amendments of 1984 (HSWA), and regulations promulgated thereunder by the U.S. Environmental Protection Agency (EPA) [codified and to be codified in Title 40 of the Code of Federal Regulations (40 CFR)]; a permit is hereby issued to the U.S. Air Force Elmendorf Air Force Base (AFB)(hereafter called the Permittee) to operate a hazardous waste container storage unit in Building 11735 at USAF Elmendorf AFB, geographically located in the Municipality of Anchorage, Alaska, at latitude 61 degrees 14 minutes North and longitude 149 degrees 48 minutes West.

The Permittee must comply with all terms and conditions of this hazardous waste facility permit. This permit consists of the conditions contained herein (including those in any attachments), and the applicable regulations contained in 40 CFR Parts 260 through 264, 266, 268, 270, and 124. Any management of hazardous waste subject to 40 CFR Parts 264 or 265, which is not authorized by this permit, is prohibited.

Nothing in this permit shall limit the Agency's authority to undertake, or require any person to undertake, response action or corrective action under any law, including, but not limited to, Section 104 or 106 of CERCLA, 42 U.S.C. Sections 9604 and 9606, and Section 7003 of RCRA, 42 U.S.C. Section 6973. Nor shall any permit condition relieve the Permittee of any obligations under any law, including, but not limited to, Section 103 of CERCLA, 42 U.S.C. Section 9603 to report releases of hazardous wastes, constituents, or substances to, at, or from the facility.

Applicable federal regulations are those that are in effect on the date of final administrative action on this Permit and any self-implementing statutory provisions and related regulations which, according to the requirements of RCRA (as amended), are automatically applicable to the Permittee's hazardous waste management activities, notwithstanding the conditions of this Permit.

This Permit is based upon the administrative record, as required by 40 CFR § 124.9. The Permittee's failure in the application or during the Permit issuance process to fully disclose all relevant facts, or the Permittee's misrepresentation of any relevant facts at any time, shall be grounds for the termination or modification of this Permit and/or initiation of an enforcement action, including criminal

proceedings. The Permittee shall inform the Administrator of noncompliance with any condition of the Permit or changes to the information provided in the Part B Permit Application that might affect the ability of the Permittee to comply with applicable regulations and permit conditions, or which alter any of the conditions of the Permit in any way.

This Permit includes the provisions of Section 206, 212, and 224 of the Hazardous and Solid Waste Amendments of 1984 (HSWA), which amended Sections 3004 and 3005 of RCRA, 42 U.S.C. §§ 6924 and 6925. In particular, Section 3004(u), 42 U.S.C. § 6924(u) requires corrective action for all releases of hazardous waste or constituents from any solid waste management unit at a treatment, storage, or disposal facility seeking a permit, regardless of the time at which waste was placed in such unit. Section 212 of HSWA provides that permits shall be for a fixed term not to exceed 10 years. Section 3005(c), 42 U.S.C. § 6925(c), provides the Administrator with authority to review and modify the permit at any time. Under Section 6925(h) of RCRA, 42 U.S.C. § 6925(h), RCRA permits for hazardous waste management on the premises where the waste was generated must require the Permittee to certify efforts taken to minimize the amount and toxicity of hazardous waste.

At this time, the State of Alaska does not have an authorized RCRA program pursuant to Section 3006 of RCRA, 42 U.S.C. § 6926. Therefore, this permit is issued by the EPA since the EPA has primacy under RCRA to enforce it.

DEFINITIONS

For purposes of this permit, the following definitions shall apply:

- a. **"Administrator"** shall mean the Region 10 Regional Administrator of the U.S. Environmental Protection Agency (EPA) or a designated representative. The Director, Office of Waste and Chemicals Management, EPA Region 10 (with the address as specified on page one of this permit), is a duly authorized and designated representative of the Administrator for purposes of this permit.
- b. **"Daily"** shall mean regular work days, except that no more than four (4) consecutive calendar days shall fall between groups of **"daily"** activities required by this permit.
- c. All definitions contained in 40 CFR Parts 124 and 260 through 270 are hereby incorporated by reference into this permit. Where terms are not defined in the regulations or the permit, the meaning associated with such terms shall be the standard dictionary definition, or their generally accepted scientific or industrial meaning.
- d. Unless otherwise noted, all schedules refer to calendar time; e.g., thirty (30) days means thirty (30) calendar days.
- e. **"Permittee"** means the U. S. Air Force (USAF).
- f. **"Release"** means any spilling, leaking, pouring, emitting, emptying, discharging, injecting, pumping, escaping, leaching, dumping, or disposing of hazardous waste (including hazardous constituents) into the environment (including the abandonment or discarding of barrels, containers, and other closed receptacles containing hazardous wastes or hazardous constituents).
- g. **"Solid waste management unit"** means any discernible unit at which solid wastes have been placed at any time, irrespective of whether the unit was intended for the management of solid or hazardous waste. Such units include any area at a facility at which hazardous wastes or hazardous constituents have been routinely and systematically released.
- h. **"Hazardous constituent"** means any constituent identified in Appendix VIII of 40 CFR Part 261, or any constituent identified in Appendix IX of 40 CFR Part 264.
- I. The term **"Agency"** shall mean the U.S. Environmental Protection Agency, Region 10 (with the address as specified on page one of this Permit).
- j. The term **"Permit"** shall mean the Permit issued by the Environmental Protection Agency, Region 10 pursuant to 42 U.S.C. Section 3251 et seq., 40 CFR Parts 124 and 270.

- k. The term **“Work”** shall mean any activity the Permittee is required to perform under the permit.
- l. The term **“historical”** shall mean any past activity by the Permittee.

PART I - STANDARD CONDITIONS

I.A. Effect of Permit

- I.A.1 The Permittee is allowed to store hazardous waste in accordance with the conditions of this Permit. Any storage of hazardous waste governed by 40 CFR Part 264 or 265 not authorized in this permit is prohibited. Compliance with this permit during its effective term constitutes compliance, for purposes of enforcement, with 40 CFR Parts 264 and 270, for the hazardous waste activities identified and included in this permit, except for any self-implementing provisions and related regulations pursuant to HSWA. All other requirements of RCRA, including the generator requirements of 40 CFR Part 262 and 268, remain applicable to this facility and are not replaced or affected by this permit.
- I.A.2 Compliance with the terms of this permit does not constitute a defense to any order issued or any action brought under any other federal or state law providing for protection of public health or the environment, including but not limited to, Section 3013 or 7003 of RCRA, 42 U.S.C. § 6934 or 6973, or any section of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), 42 U.S.C § 9601 et seq. [40 CFR § 270.4]
- I.A.3 All references to responsibilities of the Defense Reutilization and Marketing office (DRMO), the Defense Reutilization Marketing Service (DRMS), Department of Defense (DoD) or the Defense Logistics Agency (DLA) in all attachments are references to the Permittee, USAF Elmendorf AFB. The USAF Elmendorf AFB is responsible for all hazardous waste management activities that occur on the facility.

I.B. Permit Actions and Modifications

- I.B.1. This permit may be modified, revoked and reissued, or terminated for cause, as specified in 40 CFR §§ 270.41, 270.42, and 270.43.
- I.B.2. Filing a request for a permit modification, revocation and reissuance, or termination, or filing a notification of planned changes or anticipated noncompliance on the part of the Permittee does not stay the applicability or enforceability of any permit condition.
- I.B.3. Except as provided by specific language in this permit, any modification or change in a hazardous waste management practice covered by this permit must be accomplished in accordance with 40 CFR § 270.41 or 270.42.
- I.B.3.a. A written request must be submitted at least sixty (60) calendar days prior to the proposed change in facility design or operation, or not later than sixty (60) calendar days after an unexpected event has occurred which has affected the permit. The

Administrator will approve, disapprove, or modify this request, in accordance with the procedures in 40 CFR Parts 124 and 270.

- I.B.3.b. If the Permittee determines that the corrective action program required by this permit no longer satisfies the requirements of the regulations, the Permittee must, within ninety (90) days, submit a written request for a permit modification to make those changes deemed necessary to satisfy the regulations.

I.C. Severability

- I.C.1. The provisions of this permit are severable. If any provision of this permit, or the application of any provision of this permit to any circumstances, is held invalid, the application of such provision to other circumstances and the remainder of this permit shall not be affected thereby. Invalidation of any state or federal statutory or regulatory provision, which forms the basis for any condition of this permit, does not affect the validity of any other state or federal statutory or regulatory basis for said condition. [40 CFR § 124.16(a)(2)]

- I.C.2. In the event that a condition of this permit is stayed for any reason, the Permittee shall continue to comply with the related applicable and relevant and appropriate conditions from the Permittee's previously approved permit until final resolution of the stayed condition, unless the Agency determines that compliance with the previously-approved permit condition would be technologically incompatible with compliance with other conditions of this Permit which have not been stayed.

I.D. Personal and Property Rights

- I.D.1 Issuance of this permit does not convey any property rights or any exclusive privilege, nor does issuance of the permit authorize any injury to persons or property, any invasion of other private rights, or any infringement of federal, state or local laws or regulations. [40 CFR § 270.30(g)]

I.E. Duty to Comply

- I.E.1. The Permittee shall comply with all conditions of this permit, except to the extent and for the duration such noncompliance is authorized by an emergency permit issued in accordance with 40 CFR § 270.61. Any permit noncompliance, other than noncompliance authorized by an emergency permit, constitutes a violation of RCRA and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; and/or for denial of a permit renewal application. [40 CFR § 270.30(a)]

- I.E.2. Compliance with the terms of this permit does not constitute a defense to any action brought under Sections 3007, 3008, 3013, and 7003 of RCRA (42 U.S.C. §§ 6927,

6928, 6934, and 6973); the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (CERCLA) [42 U.S.C. § 9601 et. seq.]; or any other federal or state law governing protection of public health or the environment.

I.F. Duty to Reapply

If the Permittee wishes to continue an activity allowed by this permit after the expiration date of this permit, the Permittee must submit a complete application for a new permit at least one-hundred eighty days in advance before this permit expires, in accordance with 40 CFR §§ 270.10(h) and 270.30(b).

I.G. Continuation of Expiring Permit

This permit and all conditions herein will remain in effect beyond the permit's expiration date if the Permittee has submitted a timely, complete application (40 CFR §§ 270.10, 270.13 through 270.29); and, through no fault of the Permittee, the Administrator has not issued or denied the new permit, as set forth in 40 CFR § 270.51. This Permit may be modified or revoked and reissued as necessary, and in accordance with 40 CFR § 270.41 and/or 40 CFR § 270.42.

I.H. Need to Halt or Reduce Activity Not a Defense

It shall not be a defense for the Permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit. [40 CFR § 270.30(c)]

I.I. Duty to Mitigate

In the event of noncompliance with this permit, the Permittee shall take all reasonable steps to minimize releases to the environment, and shall carry out such measures as are reasonable to prevent significant adverse impacts on human health or the environment. Such mitigation shall not be a defense to enforcement action. [40 CFR § 270.30(d)]

I.J. Proper Operation and Maintenance

The Permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the Permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance includes effective performance, adequate funding, adequate operator staffing and training, and adequate laboratory and process controls, including appropriate quality assurance/quality control procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems to maintain compliance with the conditions of this permit. No provision of this permit shall be interpreted to require the Permittee to obligate

or expend funds in violation of the Anti-Deficiency Act, 31 U.S.C. Section 1341 or any other provision of law. [40 CFR § 270.30(e)]

I.K. Duty to Provide Information

The Permittee shall furnish to the Administrator, within a reasonable time, any relevant information which the Administrator may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit, or to determine compliance with this permit. The Permittee shall also furnish to the Administrator, upon request, copies of records required to be kept by this permit. [40 CFR §§ 264.74(a), and 270.30(h)]

I.L. Inspection and Entry

Pursuant to 40 CFR § 270.30(i), the Permittee shall allow the Administrator, or authorized representatives, upon the presentation of credentials, and other documents as may be required by law to:

- I.L.1. Enter at reasonable times upon the Permittee's premises where a regulated facility or hazardous waste management activity or corrective action activity is located or conducted, or where records must be kept under the conditions of this permit;
- I.L.2. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit.
- I.L.3. Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit; and
- I.L.4. Sample or monitor, at reasonable times, for the purposes of ensuring permit compliance or as otherwise authorized by RCRA, any substances or parameters at any location.

I.M. Monitoring and Records

- I.M.1. Samples and measurements taken by the Permittee for the purpose of monitoring shall be representative of the monitored activity. The method used to obtain a representative sample of the waste to be analyzed must be the most recent appropriate method from Appendix I of 40 CFR Part 261. The Permittee shall use techniques and procedures specified in Appendix III of 40 CFR Part 261, except as Permit Condition I.M.4. provides otherwise, when collecting, preserving, shipping, analyzing, tracking and controlling samples. [40 CFR § 270.30(j)(1)]
- I.M.2. Except as specifically required by regulation or elsewhere in this permit (i.e., Permit Condition I.Y.), the Permittee shall retain at the facility records of all monitoring information, including all calibration and maintenance records and all original recordings for continuous monitoring instrumentation, copies of all reports and records required by this

permit, certification required by 40 CFR § 264.73(b)(9), and records of all data used to complete the application for this permit for a period of at least thirty-six (36) months from the date of the sample, measurement, report, record, certification, or application. This period may be extended by the Administrator at any time by notification, in writing, to the Permittee and is automatically extended during the course of any unresolved enforcement action regarding the permit until the successful conclusion of any enforcement action. [40 CFR § 270.30(j)(2)]

I.M.3. Pursuant to 40 CFR § 270.30(j)(3), records of monitoring information shall specify:

I.M.3.a. The dates, exact place and times of sampling or measurements;

I.M.3.b. The name, title and affiliation of the individual(s) who performed the sampling or measurements;

I.M.3.c. The dates the analyses were performed;

I.M.3.d. The name, title and affiliation of the individual(s) who performed the analyses;

I.M.3.e. The analytical techniques or methods used; and

I.M.3.f. The results of such analyses, including the Quality Assurance/Quality Control (QA/QC) summary.

I.M.4. The Permittee may substitute analytical methods which are equivalent to those specifically approved for use in this permit in accordance with the following:

I.M.4.a. The Permittee submits to the Administrator a request for substitution of an analytical method(s) that is equivalent to the method(s) specifically approved for use in this permit. The request shall provide information demonstrating that the proposed method(s) is equal or superior to the approved analytical method(s) in terms of sensitivity, accuracy, and precision (i.e. reproducibility); and,

I.M.4.b. The Administrator notifies the Permittee in writing that the substitution of the analytical method(s) is approved. Such approval shall not require a permit modification.

I.N. Reporting Planned Changes

The Permittee shall give notice to the Administrator as soon as possible of any planned physical alterations or additions to permitted facility. [40 CFR § 270.30(l)(1)]

I.O. Reporting Anticipated Noncompliance

The Permittee shall give advance notice, in writing, to the Administrator of any planned change(s) in the permitted facility or any activity that may result in noncompliance with permit requirements. If advance notice is not possible, then the Permittee shall give notice within twenty-four (24) hours of the time the Permittee becomes aware of the anticipated noncompliance. Such notice does not authorize any noncompliance with this permit or modification of this permit. [40 CFR § 270.30(1)(2)]

I.P. Transfer of Permits

This permit may be transferred to a new owner or operator only if it is modified or revoked and reissued pursuant to 40 CFR §§ 270.40(b), 270.41(b)(2) and 270.42. Before transferring ownership or operation of the facility during its operating life, the Permittee shall notify the new owner or operator in writing of the requirements of 40 CFR Parts 264 and 270 and this permit. [40 CFR §§ 264.12 and 270.30(1)(3)]

I.Q. Compliance Schedules

Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of this permit shall be submitted no later than fourteen (14) days following each schedule date. The Permittee shall maintain compliance with the compliance schedules included as Attachment 8 of this permit. [40 CFR § 270.30(1)(5)]

I.R. Twenty-four Hour Reporting

I.R.1. The Permittee shall report to the Administrator any noncompliance with the permit which may endanger human health or the environment. Any such information shall be reported orally within twenty-four (24) hours from the time the Permittee becomes aware of the circumstances/noncompliance. The report shall include the following:

I.R.1.a. Information concerning release of any hazardous waste that may cause an endangerment to public drinking water supplies; and

I.R.1.b. Any information of a release or discharge of hazardous waste or a fire or explosion relating to hazardous waste management at the permitted facility which could threaten the environment or human health.

I.R.2. The description in the oral report of the occurrence and its cause shall include:

I.R.2.a. Name, address, and telephone number of the owner or operator;

I.R.2.b. Name, address, and telephone number of the facility;

- I.R.2.c. Date, time, and type of incident;
- I.R.2.d. Name and quantity of material(s) involved;
- I.R.2.e. The extent of injuries, if any;
- I.R.2.f. An assessment of actual or potential hazards to the environment and human health, where this is applicable;
- I.R.2.g. Estimated quantity and disposition of recovered material that resulted from the incident; and
- I.R.2.h. A qualitative review of actions taken, intended responses, and remedial actions.
- I.R.3. A written submission shall also be provided within five (5) calendar days of the time the Permittee becomes aware of the circumstances/noncompliance. The written submission shall contain a description of the noncompliance, its extent, and its cause; the period(s) of noncompliance, including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; corrective measures taken to mitigate the situation and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance. The Director may waive the five-day written notice requirement in favor of a written report within fifteen days. [40 CFR § 270.30(1)(6)]

I.S. Other Noncompliance

The Permittee shall report to the Administrator all other instances of noncompliance not otherwise required to be reported in the monitoring reports, compliance schedules, and twenty-four (24) hour reports above, at the time monitoring reports are submitted. The reports shall contain the information listed in Permit Condition I.R. [40 CFR § 270.30(1)(10)]

I.T. Other Information

Whenever the Permittee becomes aware that it failed to submit any relevant facts in the permit application, or submitted incorrect information in a permit application or in any report to the Administrator, the Permittee shall promptly submit such facts or information to the Administrator. [40 CFR § 270.30(1)(11)].

I.U. Biennial Report

The Permittee shall comply with Biennial Report requirements of 40 CFR § 264.75.

I.V. Signature and Certification

Failure to submit the information required in this permit, or falsification of any submitted information, is grounds for termination of this permit, in accordance with 40 CFR § 270.43. The Permittee shall ensure that all plans, reports, notification, and other submissions to the Administrator, required in this permit, are signed and certified, in accordance with 40 CFR § 270.11. One copy of each, four in total, of these plans, reports, notifications or other submissions shall be submitted to EPA and sent by certified mail, Federal Express, or hand delivered to the following address:

Director, Office of Waste and Chemicals Management (WCM-121)
U.S. Environmental Protection Agency, Region 10
1200 Sixth Avenue
Seattle, WA 98101

I.W. Reports, Notification and Submissions

All reports, notifications, or other submissions which are required by this permit to be sent or given to the Administrator must be sent by certified mail, Federal Express, or given directly to:

Director, Office of Waste and Chemicals Management
U.S. Environmental Protection Agency, Region 10
1200 Sixth Avenue
Seattle, Washington 98101
Telephone number: (206) 553-1253

These are the current addressees and phone numbers and may change without modification of the Permit.

I.X. Confidential Information

The Permittee may claim confidential any information required to be submitted by this permit, in accordance with 40 CFR §§ 260.2 and 270.12.

I.Y. Documents to be Maintained at the Facility

The Permittee shall maintain at the facility (in paper or electronic format) until closure is completed and certified by an independent registered professional engineer, and have readily available for inspection, the following documents and amendments, revisions and modifications to these documents:

- I.Y.1. Waste Analysis Plan; as seen in Attachment 2 of this Permit, and monitoring, testing or analytical data from monitoring activities, as required by 40 CFR § 264.13 and this permit.

- I.Y.2. Records and results of each waste analysis performed in accordance with this permit. Results of waste analyses are kept for a period of three years.
- I.Y.3. Personnel training documents, certifications, and records, as outlined in Attachment 3 of this Permit, as required by 40 CFR § 264.16(d) and this Permit. Training records for former employees will be maintained for a period of three years, records for current employees will be maintained until closure.
- I.Y.4. Contingency Plan, as seen and referenced in Attachment 4 of this Permit, as required by 40 CFR § 264.53(a) and this Permit.
- I.Y.5. Closure and Post-Closure Plans, as seen in Attachment 5 of this Permit, as required by 40 CFR § 264.112(a) and this Permit.
- I.Y.6. Operating record, containing the documents required by 40 CFR § 264.73 and this Permit.
- I.Y.6.1. Included as part of the operating record are well construction logs, any maintenance performed, and abandonment records.
- I.Y.7. Inspection schedule(s) as required by 40 CFR § 264.15(b)(2) and this Permit. Records of inspections will be maintained for a period of at least three years.
- I.Y.8. RCRA Permit, including all attachments.
- I.Y.9. RCRA Part B Permit Application, including all attachments.
- I.Y.10. Assessment reports pursuant to Permit Condition II.I., of all incidents that require implementation of the contingency plan.
- I.Y.11. Records of spills and releases.
- I.Y.12. Copies of other permits associated with the hazardous and solid waste management units.
- I.Y.13. Summaries of records of corrective actions, ground-water monitoring well construction, and ground-water monitoring well maintenance and replacement records.

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PART II - GENERAL FACILITY STANDARDS

II.A. Design and Operation of Facility

The Permittee shall maintain and operate the facility: (1) to avoid, reduce, or eliminate waste that may be generated from accidental spills, mishandling of containers, and other such activity; and (2) to minimize the possibility of a fire, explosion, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil, or surface water, which could threaten human health or the environment, as required by 40 CFR § 264.31.

II.B. Required Notice

II.B.1. When the Permittee is to receive hazardous waste from an offsite source, the Permittee must inform the generator in writing that the Permittee has the appropriate permit(s) for, and will accept the waste the generator is shipping. The Permittee must keep a copy of this written notice for each generator as part of the operating record, in paper or electronic format, in accordance with 40 CFR §§ 264.12(b) and 264.73(b)(7). The Permittee shall notify each generator prior to receipt of hazardous waste from an offsite source of the hazardous wastes it is permitted to receive and store. The Permittee shall renotify each generator within one (1) week after any permit modification to the hazardous waste codes which the Permittee is permitted to receive and store.

II.C. General Waste Analysis

The Permittee shall comply with the Waste Analysis provisions of 40 CFR § 264.13, and shall implement the procedures outlined in the Waste Analysis Plan, Attachment 2 of this Permit.

II.D. Security

The Permittee shall comply with the security provisions of 40 CFR § 264.14 and shall implement the security measures described in the security plan, included in Attachment 7 of this Permit.

II.E. General Inspection Requirements

The Permittee shall comply with the inspection provisions of 40 CFR § 264.15 and shall implement the inspection plan in Attachment 7 of this Permit.

II.F. Training for Personnel Involved with Hazardous Waste Management Activities

The Permittee shall comply with the personnel training provisions of 40 CFR § 264.16 and

shall implement the training program outlined in Attachment 3 of this Permit.

II.G. General Requirements for Ignitable, Reactive, or Incompatible Wastes

The Permittee shall comply with the requirements of 40 CFR § 264.17 and shall implement the procedures for ignitable, reactive or incompatible wastes as described in Attachments 4 and 7 of this Permit.

II.H. Location Standards

The Permittee shall comply with the location standards of 40 CFR § 264.18.

II.I. Preparedness and Prevention

The Permittee shall comply with the preparedness and prevention provisions of 40 CFR §§ 264.31 through 264.37 and as outlined in Attachments 4 and 7 of this Permit.

II.J. Contingency Plan

The Permittee shall comply with the Contingency Planning requirements of 40 CFR §§ 264.50 through 264.56, and shall implement the Contingency Plan, Attachment 4 of this Permit.

II.K. Manifest System

The Permittee shall comply with the manifest requirements for the use of a manifest system, manifest discrepancies, and un-manifested waste reporting, in accordance with 40 CFR §§ 264.71, 264.72, 264.76 and 270.30 (1) (7) & (8).

II.L. Record Keeping and Reporting

In addition to the record keeping and reporting requirements specified elsewhere in this permit, the Permittee shall do the following:

- II.L.1. Operating Record: The Permittee shall maintain a written operating record at the facility, in paper or electronic format, in accordance with 40 CFR § 264.73. The Permittee is exempt from 40 CFR § 264.73(b)(8) for closure cost estimates, in accordance with 40 CFR § 264.140.

II.M. Closure and Post-Closure

- II.M.1. Performance Standard: The Permittee shall close the facility, as required by 40 CFR § 264.111 and in accordance with the approved Closure Plan, Attachment 5.

- II.M.2. Amendment to Closure Plan: The Permittee shall modify the Closure Plan in writing, in

accordance with 40 CFR § 264.112(c), whenever new information would more accurately characterize the manner in which the Permittee intends to close the hazardous waste storage unit. The Administrator may determine that cause exists to modify the Closure Plan at any time, in accordance with 40 CFR § 270.41.

- II.M.3. Notification of Closure: The Permittee shall notify the Administrator in writing at least 45 days prior to the date on which the Permittee expects to begin closure as required by 40 CFR § 264.112(d).
- II.M.4. Time Allowed For Closure: After receiving the final volume of hazardous waste, the Permittee shall remove from storage all hazardous waste and shall complete closure activities, in accordance with 40 CFR § 264.113; and the Closure Plan, Attachment 5.
- II.M.5. Disposal or Decontamination of Equipment, Structures, and Soils: The Permittee shall decontaminate and/or remove and dispose of all contaminated equipment, structures, and soils, as required by 40 CFR § 264.114, 40 CFR § 264.178, and the Closure Plan, Attachment 5.
- II.M.6. Sampling and Analysis Plan: The Permittee shall submit a detailed sampling and analysis plan (SAP) to the Administrator prior to conducting final closure activities in accordance with the schedule in the Closure Plan. The SAP shall include protocols for sampling of the empty storage areas and underlying soils. These protocols will include; the number of samples and sampling grid, sample parameters, specific EPA SW-846 (*Test Methods for Evaluating Soil Waste, Physical/Chemical Methods*) (EPA 1996) methods, location and rationale for background samples, proposed action levels and proposed cleanup levels.
- II.M.7. Certification of Closure: The Permittee shall certify that the facility has been closed, in accordance with the specification in the Closure Plan, as required by 40 CFR § 264.77(b) and 40 CFR § 264.115.

II.N. Pollution Prevention Program

- II.N.1 The Permittee shall comply with the pollution prevention requirements of 40 CFR § 264.73(b)(9). To the extent economically practicable, Air Force Instruction 32-7080, "Pollution Prevention Program," dated 12 May 1994, shall be implemented.
- II.N.2 Incidental to the storage of hazardous waste in the facility, the Permittee will store hazardous materials with the intention of reutilization, transfer, donation or sales of the material on site or off-site. The material will be stored under the same storage and handling considerations as hazardous waste. If reutilization of the material cannot be arranged, then the material will be handled as solid or hazardous waste, as appropriate.

II.O. Equivalent Materials

If certain equipment, materials, procedures, and administrative information (such as names, telephone numbers, or addresses) are specified in this permit, the Permittee is allowed to use an equivalent or superior item. Use of such equivalent or superior items shall not be considered a modification of the permit, but the Permittee shall place a notation of such a revision in the operating record, accompanied by a narrative explanation and the date the revision became effective. The Administrator may judge the soundness of the revision during inspections of the facility and may require the Permittee to reinstate the equipment, materials, procedures or administrative information specified in the permit. The format of tables, forms and figures are not subject to the requirements of this permit, and may be revised according to the Permittee's discretion.

II.P. Air Emission Standards

The Permittee shall comply with the air emission standards outlined in 40 CFR Subpart CC and as outlined in Attachment 7 of this Permit. Specifically, general standards outlined in 40 CFR 264.1082 and standards that apply to emissions from containers outlined in 40 CFR 264.1086 shall be followed.

PART III - STORAGE IN CONTAINERS

III.A. Waste Identification

III.A.1. The Permittee may store the following RCRA hazardous wastes in containers at USAF Elmendorf AFB, subject to the terms of this permit:

Location: Building 11735

Description:

- Batteries: alkaline, lithium, mercury, nickel-cadmium, zinc
- Corrosives: various acids and bases, including chromic, hydrochloric and sulfuric; sodium hydroxide; ammonia hydroxide; and cleaning compounds
- Discarded commercial chemical products identified in Part A
- PCB wastes, including transformers and contaminated soil
- Poisons and pesticides
- Residues generated by open burn/open detonation treatment processes
- Respirator cartridges and charcoal filters containing toxicity-characteristic concentrations of chromium, including oxygen-breathing apparatus canisters.
- Soils contaminated with heavy metals
- Solids and liquids from spill cleanups
- Solvents, chlorinated and non-chlorinated
- Toxicity characteristic wastes (D018 to D039) generated during maintenance and other operations by the Permittee and at the off-site federal installations
- Waste copier dispersant, dye penetrant used in magna-fluxing, ethyl alcohol, and marathon reducer
- Waste paint-related items that may contain solvents and metals. Waste items include latex and enamel paint waste and sludges, epoxy, paint thinner and stripper, coatings and thinners, and paint-booth filters
- Waste fuel and waste oil, and solids contaminated with these materials. This waste may contain solvents and metals
- Wastes from historical operations at federal facilities located throughout Alaska

Permitted RCRA Waste Codes: See Part A Application.

III.A.2. The Permittee may store other discarded commercial chemical products, off-specification species, container residues, and spill residues, as listed in 40 CFR § 261.33 that are not identified in Permit Condition III.A.1, upon satisfying the Permit modification request procedure and receiving approval from the Administrator, as set forth in 40 CFR § 270.42. The storage of different wastes in containers that require additional or different management practices from those authorized in the Permit shall be considered a Class 3 modification. The storage of different wastes in containers that do not require additional or different management practices from those authorized in the Permit shall be considered a Class 2 modification.

III.A.3. The Permittee shall manage newly listed or identified wastes in accordance with 40 CFR § 270.42(g).

III.A.4. The Permittee shall not store any other wastes not specified on the Hazardous Waste Permit Information Form, (EPA Form 8700-23), or in paragraphs III.A.1, III.A.2, or III.A.3 without first obtaining a permit modification in accordance with 40 CFR 164.42.

III.B. Condition of Containers

III.B.1. If a container holding hazardous waste is not in good condition (e.g., corrosion, apparent structural defects, creases or dents, etc.), or if it begins to leak, the Permittee shall transfer the hazardous waste to a container that is in good condition, or otherwise manage the waste in some other way in compliance with 40 CFR § 264.171.

III.B.2. The Permittee shall maintain at all times a sufficient number of empty containers, overpack drums, and drip pans at the hazardous waste storage units to comply with Permit Condition III.B.1.

III.C. Compatibility of Waste with Containers

The Permittee shall use a container made of or lined with materials that will not react with, and are otherwise compatible with, the hazardous waste to be stored, so that the ability of the container to contain the waste is not impaired, as required in 40 CFR § 264.172.

III.D. Management of Containers

III.D.1. The Permittee shall always have containers holding hazardous waste closed during storage, except when it is necessary to add or remove waste, as required in 40 CFR § 264.173(a).

III.D.2. The Permittee shall not open, handle, or store hazardous waste in a manner which may rupture a container or cause it to leak, as required in 40 CFR § 264.173(b).

III.D.3. At any time, the Permittee may store a maximum volume of 120,120 gallons of waste

identified in Permit Condition III.A.1. This requirement applies regardless of whether the containers hold hazardous or non-hazardous waste.

III.E. Inspection of Containers and Containment System

- III.E.1. The Permittee shall inspect, at least once every seven (7) days, areas where containers are stored, looking for leaking containers and for deterioration of containers and the containment system caused by corrosion, temperature, and/or other factors, as required in 40 CFR § 264.174.
- III.E.2. The Permittee shall document the inspections by maintaining the Inspection Log, in paper or electronic format, as required by 40 CFR § 264.15 and described in Attachment 7.
- III.E.3. The Permittee shall visually inspect each container for its integrity prior to handling or moving, as required in 40 CFR § 264.31.

III.F. Containment

- III.F.1. The Permittee shall maintain and operate the container storage containment system, as designed and described in the attached plans and specifications, Attachment 6, as required in 40 CFR § 264.175.
- III.F.2. The Permittee shall operate and maintain the containment system such that the base underlying the containers is free of cracks or gaps and is sufficiently impervious to contain leaks and spills and accumulated precipitation until the collected material is detected and removed, as required in 40 CFR § 264.175(b).
- III.F.3. The Permittee shall store free liquids or hazardous waste only in containers that meet the United Nations Performance Oriented Packaging specifications for that particular type of waste. The containment system for these wastes must have sufficient capacity to contain 10 percent (10%) of the storage capacity of the containment system or the volume of the largest container being stored, whichever is greater, as required in 40 CFR § 264.175(b)(3).
- III.F.4. The Permittee shall remove spilled or leaked waste and accumulated precipitation from the sump or collection area in a manner as is necessary to prevent overflow of the collection system and in a manner to keep the containers from contact with the liquids/material in the collection area. The Permittee shall manage the collected material in accordance with 40 CFR § 264.175(b)(5). If the collected material is a hazardous waste under 40 CFR Part 261, it must be managed in accordance with all applicable requirements of 40 CFR Parts 262 through 266.

III.G. Special Requirements for Incompatible Waste

- III.G.1. The Permittee shall separate containers of incompatible wastes, as required by 40 CFR § 264.177 and as described in Attachment 7 of this permit, Procedures to Prevent Hazards.
- III.G.2. Notwithstanding Permit Condition III.G.1., the Permittee shall not place incompatible wastes or incompatible wastes and materials in the same container, nor place hazardous waste in an unwashed container that previously held an incompatible waste or material, as required in 40 CFR § 264.177.
- III.G.3. Notwithstanding Permit Condition III.G.1., the Permittee shall separate or otherwise protect any storage container holding hazardous waste from any incompatible wastes or materials by means of a dike, berm, wall, or other appropriate device, such as an overpack drum, salvage drum, or drip pan, as required in 40 CFR § 264.177.
- III.G.4. Notwithstanding Permit Conditions III.A.1-3, the Permittee shall not place incompatible wastes, or incompatible wastes and materials in the same bay, unless the Permittee complies with 40 CFR § 264.17(a)-(c) and Permit Condition II.G.

III.H. Prohibitions of Storage of Restricted Wastes

- III.H.1. The Permittee is prohibited from receiving or storing hazardous wastes restricted from land disposal, unless the conditions required in 40 CFR § 268.50 are met.
- III.H.2. The Permittee shall store land disposal restriction (LDR) hazardous waste in tanks or containers onsite solely for the purpose of the accumulation of such quantities of hazardous waste as necessary to facilitate proper recovery, treatment, or disposal and each container shall be clearly marked to identify its contents and the date each period of accumulation begins, as required by 40 CFR § 268.50(a)(2). The Permittee shall not store hazardous waste to circumvent or forestall the treatment requirements of 40 CFR Part 268.
- III.H.3. The Permittee shall store LDR wastes for no more than three-hundred sixty-five (365) days, unless the Permittee can demonstrate to the satisfaction of the Administrator that such storage is/was solely for the purpose of accumulation of such quantities of hazardous waste as are necessary to facilitate proper recovery, treatment, or disposal, as required in 40 CFR § 268.50(b)&(c). The Permittee shall provide a written demonstration if the waste has been stored for greater than three-hundred sixty-five (365) days and in accordance with Permit Condition III.H.2. This three-hundred sixty-five (365) day limitation does not apply to wastes subject to an approved petition, a nationwide variance, or an approved extension, nor to a waste that meets the treatment standard.

- III.H.4. The Permittee shall not dilute a restricted waste, in any manner, in accordance with 40 CFR § 268.3.
- III.H.5. The Permittee shall receive from the generator all necessary notices, notifications, and certifications that are required to determine if a waste is restricted from land disposal, in accordance with 40 CFR § 268.7.
- III.H.6. The Permittee shall comply with the notice, notification, and certification requirements under 40 CFR § 268.7 when sending waste or treatment residue off-site, in accordance with 40 CFR § 268.7(b)(6).
- III.H.7. The Permittee shall keep all copies of each applicable generator's demonstration and certification in the Permittee's operating record when the waste received is subject to a valid certification in accordance with 40 CFR § 264.73(b).
- III.H.8. It is the duty of the Permittee to request a modification of this Permit in the event that the Permittee believes any permit condition in Permit Condition III.H. prevents the ability of the Permittee to comply with 40 CFR Part 268, in accordance with 40 CFR §§ 270.4(a) & 270.41(a).

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PART IV – CORRECTIVE ACTION FOR SOLID WASTE MANAGEMENT UNITS

IV.A. CERCLA Section 120 Federal Facility Agreement

- IV.A.1. Section 3004(u) of RCRA (Section 206 of HSWA) and regulations promulgated at 40 CFR § 264.101 require corrective action, as necessary, to protect human health and the environment for all releases of hazardous waste or hazardous constituents from any solid waste management unit (SWMU), for all permits issued after 8 November 1984. A Federal Facility Agreement (FFA) under Section 120(e)(2) of CERCLA is a mechanism used to investigate and clean up releases of hazardous waste and constituents to protect human health and the environment. All investigations and cleanups included in the FFA will meet or exceed all applicable or relevant and appropriate state and federal requirements, including RCRA, to the extent required by Section 121 of CERCLA, 42 U.S.C. § 9621.IV.A.2.
- IV.A.2. The corrective action for USAF Elmendorf AFB will be satisfied by the FFA, which was dated by EPA on 19 September 1991, and became effective on 15 November 1991. Compliance with the FFA is made a condition of this permit and the FFA is included in this permit as Attachment 9. The corrective action requirement of 40 CFR § 264.101 will be satisfied by the FFA, except for:
- IV.A.2.a. Those units that the parties to the FFA transfer to the Corrective Action Schedule of Compliance in Attachment 8;
- IV.A.2.b. Those SWMUs that the Parties to the FFA formally identify as outside the scope of the FFA;
- IV.A.2.c. Those newly identified SWMUs that the Parties to the FFA identify as outside the scope of the FFA, which EPA determines to be subject to corrective action; or
- IV.A.2.d. Those SWMUs that are discovered after the termination of the FFA, which EPA determines will be subject to corrective action..
- IV.A.3. All SMWUs at Elmendorf AFB shall be appropriately addressed either under the FFA or directly under this permit. The Permittee shall notify EPA of SWMUs that are not being addressed by the FFA. For SWMUs subject to Permit Condition IV.A.2.a and IV.A.2.b, such notice shall be provided within 30 days of the effective date of this Permit. For SWMUs subject to Permit Condition IV.A.2.c and IV.A.2.d, such notice shall be provided within 30 days of the identification or discovery, subject to EPA approval.
- IV.A.4. The SWMUs that are presently being addressed under the FFA are listed in Attachment

8, "Corrective Action for Solid Waste Management Units."

IV.B. Newly-Identified or Newly-Created Solid Waste Management Units

- IV.B.1. The Permittee shall notify the Administrator in writing of any newly-identified or newly-created SWMU(s) that are not covered by this permit or the FFA, as set out in Attachment 8. This notice shall be provided no later than fifteen (15) calendar days after discovery of the newly identified or created SWMU(s).
- IV.B.2. Within ninety (90) calendar days after the notification provided in accordance with Permit Condition IV.B.1, the Permittee shall prepare a SWMU Assessment Report. At a minimum, the Report shall provide the following information for each newly-identified or newly-created SWMU:
- IV.B.2.a. The location of each newly-identified SWMU in relation to other SWMUs, building numbers, or other descriptive landmarks;
- IV.B.2.b. The type and function of the unit;
- IV.B.2.c. The general dimensions, capacities, and structural description of the unit (supply any available drawings);
- IV.B.2.d. The period during which the unit was operated;
- IV.B.2.e. The specifics on all wastes that have been or are being managed at the SWMU, to the extent available; and
- IV.B.2.f. A description of any release (or suspected release) of hazardous constituents originating from the unit, including planned or unplanned releases to the air. Include information on the date of release, type of hazardous waste or hazardous constituents, quantity released, nature of the release, extent of release migration, and cause of release (e.g. overflow, broken pipe, tank leak, etc.). Also provide any available data which would quantify the nature and extent of environmental contamination, including the results of soil and/or groundwater sampling and analysis efforts. Likewise, submit any existing monitoring information that indicates release of hazardous waste or hazardous constituents has not occurred or is not occurring.
- IV.B.3. Based on the results of this Report, the Administrator shall determine the need for further investigations at specific unit(s) covered in the SWMU Assessment Report. If the Administrator determines that such investigations are needed, the Administrator may require the Permittee to prepare an RFI workplan and/or RFI report within a

specified time and in accordance with EPA guidance. If the Administrator determines that corrective measures are required, the Permittee shall submit a request for a permit modification to implement corrective measures.

IV.C. Newly-Discovered Releases at Solid Waste Management Units

IV.C.1. The Permittee shall notify the Administrator, in writing, of any release(s) of hazardous waste or hazardous constituents from any SWMU. Such newly-discovered releases may be from newly-identified SWMUs, from SWMUs at which the Administrator had previously determined that no further investigation was necessary, or from SWMUs investigated as part of this permit. This notification shall be submitted in two parts:

IV.C.1.a. First, within fifteen (15) calendar days of discovery of the release, the Permittee shall submit in writing an initial notification report of the discovery. This notification shall alert the Agency to the magnitude of the threat.

IV.C.1.b. Second, within sixty (60) days of such a discovery, the Permittee must submit a written report. The report shall discuss the Permittee's efforts to investigate and/or remediate the discovered release and shall specifically include:

- i. the concentrations and estimated quantities of any hazardous wastes or hazardous constituents released;
- ii. the known, or expected, pathway(s) through which the contamination is migrating (or may migrate), and the extent, rate, and direction of that migration;
- iii. the projected fate and transport of the release;
- iv. the likely exposure pathway(s) for potential receptors, and the consequences of exposure to these receptors; and,
- v. an outline of proposed Interim Measures to arrest the release, as well as a schedule for implementing the Measures. The schedule should be justified by a discussion of possible consequences arising from any delay in implementing Interim Measures.

IV.C.2. If, based either on information submitted in Permit Condition IV.B.1 or IV.C.1 above, or on information obtained during the investigation or monitoring of the facility, the Agency determines at any time that a threat to human health or the environment may result from a release at the facility, the Permittee will be directed by

a notification from the Agency to implement interim corrective measures designed to minimize the threat to human health and the environment, subject to review and approval by the Agency. Interim corrective measures are subject to the dispute resolution procedures in Permit Condition V.N. Implementation by the Permittee of treatment or containment activities taken during immediate response to a discharge of hazardous waste, an imminent and substantial threat of a discharge of hazardous waste, or a discharge of material which, when discharged, becomes a hazardous waste, is not subject to this permit. [40 C.F.R. § 270.1(c)(3)]

IV.C.3. Within ninety (90) days of discovery of a release, the Permittee shall submit a Report describing the interim corrective measures activities taken to date. This Report shall include the reporting requirements specified in Permit Condition IV.A. If the Administrator determines that additional investigation or corrective measures are required, the Permittee shall submit a request for a permit modification to investigate and perform additional corrective measures, or the Agency may initiate a permit modification.

IV.D. Date/Deadline Changes

Revisions to Attachment 9 of this Permit (the FFA), resulting from amendments to the FFA dates/deadlines, shall not require a permit modification if all parties to the FFA have agreed upon such revisions.

ATTACHMENT F



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10

1200 Sixth Avenue, Suite 900
Seattle, WA 98101-3140

DEC 02 2010

OFFICE OF
AIR, WASTE AND TOXICS

Robert D. Evans, Colonel, USAF Commander
673 ABW/CC
10471 20th Street, Suite 139
JBER, AK 99506-2200

Re: Elmendorf Air Force Base Class 2 Permit Modification
EPA ID#: AK8 57002 8649

Dear Col. Evans:

The U.S. Environmental Protection Agency Region 10 (EPA) is hereby making a final determination to modify the United States Air Force's hazardous waste management facility permit AK8 57002 8649. The permit modification effectuates a change in the facility boundary reflecting the merger of Elmendorf Air Force Base with Ft. Richardson U.S. Army Base. The modified permit merges the Resource Conservation and Recovery Act (RCRA) hazardous waste management permit and corrective action requirements for Elmendorf Air Force and Ft. Richardson Army bases into a single permit for the facility, now known and identified in the permit as Joint Base Elmendorf-Richardson (JBER).

The permit has been modified under the authority of the RCRA, as amended, 42 U.S.C. § 6901 *et seq.*, in accordance with the requirements for a Class 2 permit modification pursuant to 40 C.F.R. § 270.42(b). The effective date of the modified Permit is December 1, 2010. A copy of the modified permit is enclosed. A summary of the modifications to the permit made effective by this action is provided at page B-8 of the enclosed permit.

If you have any questions regarding this permit modification, please contact Holly Arrigoni of my staff at (206) 553-4350 or arrigoni.holly@epa.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Richard Albright", written over a horizontal line.

Richard Albright, Director
Office of Air, Waste and Toxics
U.S. EPA Region 10

Enclosure

cc: Scott Morey, JBER
Therese Deardorff, JBER
Jon Scudder, JBER (electronic w/ enclosure)
Louis Howard, ADEC (electronic w/enclosure)

HAZARDOUS WASTE MANAGEMENT FACILITY PERMIT

U.S. Environmental Protection Agency, Region 10
Office of Air, Waste and Toxics (AWT-121)
RCRA Corrective Action and Permits Team
1200 Sixth Avenue, Suite 900
Seattle, Washington 98101

Issued in accordance with the Resource Conservation and Recovery Act (RCRA) as amended, 42 U.S.C. § 6901 *et seq.*, and the Hazardous and Solid Waste Amendments of 1984 (HSWA), and the regulations promulgated thereunder in Title 40 of the Code of Federal Regulations (CFR) Parts 124 and 260 through 271.

ISSUED TO: UNITED STATES AIR FORCE (USAF)
Joint Base Elmendorf-Richardson (JBER), AK 99506-3240
EPA I.D. No.: AK8 57002 8649

This permit modification is effective as of December 1, 2010 and shall remain in effect until December 15, 2013, unless revoked and reissued under 40 CFR § 270.41, or terminated under 40 CFR § 270.43, or continued in accordance with 40 CFR § 270.51(a). This permit will be reviewed five (5) years after the date of issuance, in accordance with Section 3005(c)(3) of RCRA, 42 U.S.C. § 6925(c)(3), and 40 CFR § 270.50, and will be modified as necessary to ensure that the facility continues to comply with the currently applicable requirements of Sections 3004 and 3005 of RCRA, 42 U.S.C. §§ 6924 and 6925.

ISSUED BY: The U.S. ENVIRONMENTAL PROTECTION AGENCY


Richard Albright, Director
Office of Air, Waste and Toxics
U.S. Environmental Protection Agency, Region 10

Date

12/1/10

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ATTACHMENTS

The following Attachments describing specific requirements from the Permittee's RCRA permit application are hereby incorporated as enforceable conditions of this permit. In the event of any inconsistencies between a permit condition and an Attachment, the permit condition shall prevail.

Attachment 1 – Facility Description

Attachment 2 – Waste Analysis Plan

Attachment 3 – Personnel Training Outline

Attachment 4 – Hazardous Waste Contingency Plan

Attachment 5 – Closure Plan for the TSDF

Attachment 6 – TSDF Plans and Specifications

Attachment 7 – Procedures to Prevent Hazards

Attachment 8 – Corrective Action for Solid Waste Management Units

Attachment 9 – Federal Facility Agreement

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INTRODUCTION

Permittee: U.S. Air Force
EPA ID Number: AK8 57002 8649

Pursuant to the Resource Conservation and Recovery Act of 1976, as amended, 42 U.S.C. § 6901 *et. seq.*, (RCRA), and the Hazardous and Solid Waste Amendments of 1984 (HSWA), and regulations promulgated thereunder by the U.S. Environmental Protection Agency (EPA) [codified and to be codified in Title 40 of the Code of Federal Regulations (40 CFR)]; a permit is hereby issued to the Joint Base Elmendorf-Richardson (JBER) (hereafter called the Permittee) to operate a hazardous waste container storage unit in Building 11735 at JBER, geographically located in the Municipality of Anchorage, Alaska, at latitude 61 degrees 14 minutes North and longitude 149 degrees 48 minutes West.

The Permittee must comply with all terms and conditions of this hazardous waste facility permit. This permit consists of the conditions contained herein (including those in any attachments), and the applicable regulations contained in 40 CFR Parts 260 through 264, 266, 268, 270, and 124. Any management of hazardous waste subject to 40 CFR Parts 264 or 265, which is not authorized by this permit, is prohibited.

Nothing in this permit shall limit the Agency's authority to undertake, or require any person to undertake, response action or corrective action under any law, including, but not limited to, Section 104 or 106 of CERCLA, 42 U.S.C. Sections 9604 and 9606, and Section 7003 of RCRA, 42 U.S.C. Section 6973. Nor shall any permit condition relieve the Permittee of any obligations under any law, including, but not limited to, Section 103 of CERCLA, 42 U.S.C. Section 9603 to report releases of hazardous wastes, constituents, or substances to, at, or from the facility.

Applicable federal regulations are those that are in effect on the date of final administrative action on this Permit and any self-implementing statutory provisions and related regulations which, according to the requirements of RCRA (as amended), are automatically applicable to the Permittee's hazardous waste management activities, notwithstanding the conditions of this Permit.

This Permit is based upon the administrative record, as required by 40 CFR § 124.9. The Permittee's failure in the application or during the Permit issuance process to fully disclose all relevant facts, or the Permittee's misrepresentation of any relevant facts at any time, shall be grounds for the termination or modification of this Permit and/or initiation of an enforcement action, including criminal proceedings. The Permittee shall inform the Administrator of

noncompliance with any condition of the Permit or changes to the information provided in the Part B Permit Application that might affect the ability of the Permittee to comply with applicable regulations and permit conditions, or which alter any of the conditions of the Permit in any way.

This Permit includes the provisions of Section 206, 212, and 224 of the Hazardous and Solid Waste Amendments of 1984 (HSWA), which amended Sections 3004 and 3005 of RCRA, 42 U.S.C. §§ 6924 and 6925. In particular, Section 3004(u), 42 U.S.C. § 6924(u) requires corrective action for all releases of hazardous waste or constituents from any solid waste management unit at a treatment, storage, or disposal facility seeking a permit, regardless of the time at which waste was placed in such unit. Section 212 of HSWA provides that permits shall be for a fixed term not to exceed 10 years. Section 3005(c), 42 U.S.C. § 6925(c), provides the Administrator with authority to review and modify the permit at any time. Under Section 6925(h) of RCRA, 42 U.S.C. § 6925(h), RCRA permits for hazardous waste management on the premises where the waste was generated must require the Permittee to certify efforts taken to minimize the amount and toxicity of hazardous waste.

At this time, the State of Alaska does not have an authorized RCRA program pursuant to Section 3006 of RCRA, 42 U.S.C. § 6926. Therefore, this permit is issued by the EPA since the EPA has primacy under RCRA to enforce it.

Modifications to the Permit, Effective December 1, 2010

- All instances of "Elmendorf" were replaced with "Joint Base Elmendorf-Richardson" or "JBER".
- Paragraph IV.A.1 was rewritten to include the Federal Facility Agreement (FFA) from Ft. Richardson.
- The contact information for the U.S. EPA Director has been updated throughout the document.

DEFINITIONS

For purposes of this permit, the following definitions shall apply:

- a. **"Administrator"** shall mean the Region 10 Regional Administrator of the U.S. Environmental Protection Agency (EPA) or a designated representative. The Director, Office of Air, Waste and Toxics, EPA Region 10 (with the address as specified on page one of this permit), is a duly authorized and designated representative of the Administrator for purposes of this permit.
- b. **"Daily"** shall mean regular work days, except that no more than four (4) consecutive calendar days shall fall between groups of **"daily"** activities required by this permit.
- c. All definitions contained in 40 CFR Parts 124 and 260 through 270 are hereby incorporated by reference into this permit. Where terms are not defined in the regulations or the permit, the meaning associated with such terms shall be the standard dictionary definition, or their generally accepted scientific or industrial meaning.
- d. Unless otherwise noted, all schedules refer to calendar time; e.g., thirty (30) days means thirty (30) calendar days.
- e. **"Permittee"** means the U. S. Air Force (USAF).
- f. **"Release"** means any spilling, leaking, pouring, emitting, emptying, discharging, injecting, pumping, escaping, leaching, dumping, or disposing of hazardous waste (including hazardous constituents) into the environment (including the abandonment or discarding of barrels, containers, and other closed receptacles containing hazardous wastes or hazardous constituents).
- g. **"Solid waste management unit"** means any discernible unit at which solid wastes have been placed at any time, irrespective of whether the unit was intended for the management of solid or hazardous waste. Such units include any area at a facility at which hazardous wastes or hazardous constituents have been routinely and systematically released.
- h. **"Hazardous constituent"** means any constituent identified in Appendix VIII of 40 CFR Part 261, or any constituent identified in Appendix IX of 40 CFR Part 264.
- i. The term **"Agency"** shall mean the U.S. Environmental Protection Agency, Region 10 (with the address as specified on page one of this Permit).
- j. The term **"Permit"** shall mean the Permit issued by the Environmental Protection Agency, Region 10 pursuant to 42 U.S.C. Section 3251 *et seq.*, 40 CFR Parts 124 and 270.

- k. The term "**Work**" shall mean any activity the Permittee is required to perform under the permit.
- l. The term "**historical**" shall mean any past activity by the Permittee.

PART I - STANDARD CONDITIONS

I.A. Effect of Permit

- I.A.1 The Permittee is allowed to store hazardous waste in accordance with the conditions of this Permit. Any storage of hazardous waste governed by 40 CFR Part 264 or 265 not authorized in this permit is prohibited. Compliance with this permit during its effective term constitutes compliance, for purposes of enforcement, with 40 CFR Parts 264 and 270, for the hazardous waste activities identified and included in this permit, except for any self-implementing provisions and related regulations pursuant to HSWA. All other requirements of RCRA, including the generator requirements of 40 CFR Part 262 and 268, remain applicable to this facility and are not replaced or affected by this permit.
- I.A.2 Compliance with the terms of this permit does not constitute a defense to any order issued or any action brought under any other federal or state law providing for protection of public health or the environment, including but not limited to, Section 3013 or 7003 of RCRA, 42 U.S.C. § 6934 or 6973, or any section of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), 42 U.S.C § 9601 *et seq.* [40 CFR § 270.4]
- I.A.3 All references to responsibilities of the Defense Reutilization and Marketing Office (DRMO), the Defense Reutilization Marketing Service (DRMS), Department of Defense (DoD) or the Defense Logistics Agency (DLA) in all attachments are references to the Permittee, JBER. JBER is responsible for all hazardous waste management activities that occur on the facility.

I.B. Permit Actions and Modifications

- I.B.1 This permit may be modified, revoked and reissued, or terminated for cause, as specified in 40 CFR §§ 270.41, 270.42, and 270.43.
- I.B.2 Filing a request for a permit modification, revocation and reissuance, or termination, or filing a notification of planned changes or anticipated noncompliance on the part of the Permittee does not stay the applicability or enforceability of any permit condition.
- I.B.3 Except as provided by specific language in this permit, any modification or change in a hazardous waste management practice covered by this permit must be accomplished in accordance with 40 CFR § 270.41 or 270.42.
- I.B.3.a A written request must be submitted at least sixty (60) calendar days prior to the proposed change in facility design or operation, or not later than sixty (60) calendar days after an unexpected event has occurred which has affected the permit. The Administrator will approve, disapprove, or modify this request, in

accordance with the procedures in 40 CFR Parts 124 and 270.

- I.B.3.b. If the Permittee determines that the corrective action program required by this permit no longer satisfies the requirements of the regulations, the Permittee must, within ninety (90) days, submit a written request for a permit modification to make those changes deemed necessary to satisfy the regulations.

I.C. Severability

- I.C.1. The provisions of this permit are severable. If any provision of this permit, or the application of any provision of this permit to any circumstances, is held invalid, the application of such provision to other circumstances and the remainder of this permit shall not be affected thereby. Invalidation of any state or federal statutory or regulatory provision, which forms the basis for any condition of this permit, does not affect the validity of any other state or federal statutory or regulatory basis for said condition. [40 CFR § 124.16(a)(2)]

- I.C.2. In the event that a condition of this permit is stayed for any reason, the Permittee shall continue to comply with the related applicable and relevant and appropriate conditions from the Permittee's previously approved permit until final resolution of the stayed condition, unless the Agency determines that compliance with the previously-approved permit condition would be technologically incompatible with compliance with other conditions of this Permit which have not been stayed.

I.D. Personal and Property Rights

- I.D.1 Issuance of this permit does not convey any property rights or any exclusive privilege, nor does issuance of the permit authorize any injury to persons or property, any invasion of other private rights, or any infringement of federal, state or local laws or regulations. [40 CFR § 270.30(g)]

I.E. Duty to Comply

- I.E.1. The Permittee shall comply with all conditions of this permit, except to the extent and for the duration such noncompliance is authorized by an emergency permit issued in accordance with 40 CFR § 270.61. Any permit noncompliance, other than noncompliance authorized by an emergency permit, constitutes a violation of RCRA and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; and/or for denial of a permit renewal application. [40 CFR § 270.30(a)]

- I.E.2. Compliance with the terms of this permit does not constitute a defense to any action brought under Sections 3007, 3008, 3013, and 7003 of RCRA (42 U.S.C. §§ 6927, 6928, 6934, and 6973); the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (CERCLA) [42 U.S.C. §

9601 et. seq.]; or any other federal or state law governing protection of public health or the environment.

I.F. Duty to Reapply

If the Permittee wishes to continue an activity allowed by this permit after the expiration date of this permit, the Permittee must submit a complete application for a new permit at least one-hundred eighty days in advance before this permit expires, in accordance with 40 CFR §§ 270.10(h) and 270.30(b).

I.G. Continuation of Expiring Permit

This permit and all conditions herein will remain in effect beyond the permit's expiration date if the Permittee has submitted a timely, complete application (40 CFR §§ 270.10, 270.13 through 270.29); and, through no fault of the Permittee, the Administrator has not issued or denied the new permit, as set forth in 40 CFR § 270.51. This Permit may be modified or revoked and reissued as necessary, and in accordance with 40 CFR § 270.41 and/or 40 CFR § 270.42.

I.H. Need to Halt or Reduce Activity Not a Defense

It shall not be a defense for the Permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit. [40 CFR § 270.30(c)]

I.I. Duty to Mitigate

In the event of noncompliance with this permit, the Permittee shall take all reasonable steps to minimize releases to the environment, and shall carry out such measures as are reasonable to prevent significant adverse impacts on human health or the environment. Such mitigation shall not be a defense to enforcement action. [40 CFR § 270.30(d)]

I.J. Proper Operation and Maintenance

The Permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the Permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance includes effective performance, adequate funding, adequate operator staffing and training, and adequate laboratory and process controls, including appropriate quality assurance/quality control procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems to maintain compliance with the conditions of this permit. No provision of this permit shall be interpreted to require the Permittee to obligate or expend funds in violation of the Anti-Deficiency Act, 31 U.S.C. Section 1341 or any other provision of law. [40 CFR § 270.30(e)]

I.K. Duty to Provide Information

The Permittee shall furnish to the Administrator, within a reasonable time, any relevant information which the Administrator may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit, or to determine compliance with this permit. The Permittee shall also furnish to the Administrator, upon request, copies of records required to be kept by this permit. [40 CFR §§ 264.74(a), and 270.30(h)]

I.L. Inspection and Entry

Pursuant to 40 CFR § 270.30(i), the Permittee shall allow the Administrator, or authorized representatives, upon the presentation of credentials, and other documents as may be required by law to:

- I.L.1. Enter at reasonable times upon the Permittee's premises where a regulated facility or hazardous waste management activity or corrective action activity is located or conducted, or where records must be kept under the conditions of this permit;
- I.L.2. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit.
- I.L.3. Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit; and
- I.L.4. Sample or monitor, at reasonable times, for the purposes of ensuring permit compliance or as otherwise authorized by RCRA, any substances or parameters at any location.

I.M. Monitoring and Records

- I.M.1. Samples and measurements taken by the Permittee for the purpose of monitoring shall be representative of the monitored activity. The method used to obtain a representative sample of the waste to be analyzed must be the most recent appropriate method from Appendix I of 40 CFR Part 261. The Permittee shall use techniques and procedures specified in Appendix III of 40 CFR Part 261, except as Permit Condition I.M.4. provides otherwise, when collecting, preserving, shipping, analyzing, tracking and controlling samples. [40 CFR § 270.30(j)(1)]
- I.M.2. Except as specifically required by regulation or elsewhere in this permit (i.e., Permit Condition I.Y.), the Permittee shall retain at the facility records of all monitoring information, including all calibration and maintenance records and all original recordings for continuous monitoring instrumentation, copies of all reports and records required by this permit, certification required by 40 CFR § 264.73(b)(9), and records of all data used to complete the application for this

permit for a period of at least thirty-six (36) months from the date of the sample, measurement, report, record, certification, or application. This period may be extended by the Administrator at any time by notification, in writing, to the Permittee and is automatically extended during the course of any unresolved enforcement action regarding the permit until the successful conclusion of any enforcement action. [40 CFR § 270.30(j)(2)]

- I.M.3. Pursuant to 40 CFR § 270.30(j)(3), records of monitoring information shall specify:
- I.M.3.a. The dates, exact place and times of sampling or measurements;
 - I.M.3.b. The name, title and affiliation of the individual(s) who performed the sampling or measurements;
 - I.M.3.c. The dates the analyses were performed;
 - I.M.3.d. The name, title and affiliation of the individual(s) who performed the analyses;
 - I.M.3.e. The analytical techniques or methods used; and
 - I.M.3.f. The results of such analyses, including the Quality Assurance/Quality Control (QA/QC) summary.
- I.M.4. The Permittee may substitute analytical methods which are equivalent to those specifically approved for use in this permit in accordance with the following:
- I.M.4.a. The Permittee submits to the Administrator a request for substitution of an analytical method(s) that is equivalent to the method(s) specifically approved for use in this permit. The request shall provide information demonstrating that the proposed method(s) is equal or superior to the approved analytical method(s) in terms of sensitivity, accuracy, and precision (i.e. reproducibility); and,
 - I.M.4.b. The Administrator notifies the Permittee in writing that the substitution of the analytical method(s) is approved. Such approval shall not require a permit modification.
- I.N. **Reporting Planned Changes**
- The Permittee shall give notice to the Administrator as soon as possible of any planned physical alterations or additions to permitted facility. [40 CFR § 270.30(l)(1)]

I.O. Reporting Anticipated Noncompliance

The Permittee shall give advance notice, in writing, to the Administrator of any planned change(s) in the permitted facility or any activity that may result in noncompliance with permit requirements. If advance notice is not possible, then the Permittee shall give notice within twenty-four (24) hours of the time the Permittee becomes aware of the anticipated noncompliance. Such notice does not authorize any noncompliance with this permit or modification of this permit. [40 CFR § 270.30(1)(2)]

I.P. Transfer of Permits

This permit may be transferred to a new owner or operator only if it is modified or revoked and reissued pursuant to 40 CFR §§ 270.40(b), 270.41(b)(2) and 270.42. Before transferring ownership or operation of the facility during its operating life, the Permittee shall notify the new owner or operator in writing of the requirements of 40 CFR Parts 264 and 270 and this permit. [40 CFR §§ 264.12 and 270.30(1)(3)]

I.Q. Compliance Schedules

Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of this permit shall be submitted no later than fourteen (14) days following each schedule date. The Permittee shall maintain compliance with the compliance schedules included as Attachment 8 of this permit. [40 CFR § 270.30(1)(5)]

I.R. Twenty-four Hour Reporting

I.R.1. The Permittee shall report to the Administrator any noncompliance with the permit which may endanger human health or the environment. Any such information shall be reported orally within twenty-four (24) hours from the time the Permittee becomes aware of the circumstances/noncompliance. The report shall include the following:

I.R.1.a. Information concerning release of any hazardous waste that may cause an endangerment to public drinking water supplies; and

I.R.1.b. Any information of a release or discharge of hazardous waste or a fire or explosion relating to hazardous waste management at the permitted facility which could threaten the environment or human health.

I.R.2. The description in the oral report of the occurrence and its cause shall include:

I.R.2.a. Name, address, and telephone number of the owner or operator;

- I.R.2.b. Name, address, and telephone number of the facility;
- I.R.2.c. Date, time, and type of incident;
- I.R.2.d. Name and quantity of material(s) involved;
- I.R.2.e. The extent of injuries, if any;
- I.R.2.f. An assessment of actual or potential hazards to the environment and human health, where this is applicable;
- I.R.2.g. Estimated quantity and disposition of recovered material that resulted from the incident; and
- I.R.2.h. A qualitative review of actions taken, intended responses, and remedial actions.
- I.R.3. A written submission shall also be provided within five (5) calendar days of the time the Permittee becomes aware of the circumstances/noncompliance. The written submission shall contain a description of the noncompliance, its extent, and its cause; the period(s) of noncompliance, including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; corrective measures taken to mitigate the situation and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance. The Director may waive the five-day written notice requirement in favor of a written report within fifteen days. [40 CFR § 270.30(1)(6)]

I.S. Other Noncompliance

The Permittee shall report to the Administrator all other instances of noncompliance not otherwise required to be reported in the monitoring reports, compliance schedules, and twenty-four (24) hour reports above, at the time monitoring reports are submitted. The reports shall contain the information listed in Permit Condition I.R. [40 CFR § 270.30(1)(10)]

I.T. Other Information

Whenever the Permittee becomes aware that it failed to submit any relevant facts in the permit application, or submitted incorrect information in a permit application or in any report to the Administrator, the Permittee shall promptly submit such facts or information to the Administrator. [40 CFR § 270.30(1)(11)].

I.U. Biennial Report

The Permittee shall comply with Biennial Report requirements of 40 CFR § 264.75.

I.V. Signature and Certification

Failure to submit the information required in this permit, or falsification of any submitted information, is grounds for termination of this permit, in accordance with 40 CFR § 270.43. The Permittee shall ensure that all plans, reports, notification, and other submissions to the Administrator, required in this permit, are signed and certified, in accordance with 40 CFR § 270.11. One copy of each, four in total, of these plans, reports, notifications or other submissions shall be submitted to EPA and sent by certified mail, Federal Express, or hand delivered to the following address:

Director, Office of Air, Waste and Toxics (AWT-121)
U.S. Environmental Protection Agency, Region 10
1200 Sixth Avenue
Seattle, WA 98101

I.W. Reports, Notification and Submissions

All reports, notifications, or other submissions which are required by this permit to be sent or given to the Administrator must be sent by certified mail, Federal Express, or given directly to:

Director, Office of Air, Waste and Toxics
U.S. Environmental Protection Agency, Region 10
1200 Sixth Avenue
Seattle, Washington 98101
Telephone number: (206) 553-1200

These are the current addressees and phone numbers and may change without modification of the Permit.

I.X. Confidential Information

The Permittee may claim confidential any information required to be submitted by this permit, in accordance with 40 CFR §§ 260.2 and 270.12.

I.Y. Documents to be Maintained at the Facility

The Permittee shall maintain at the facility (in paper or electronic format) until closure is completed and certified by an independent registered professional engineer, and have readily available for inspection, the following documents and amendments, revisions and modifications to these documents:

- I.Y.1. Waste Analysis Plan; as seen in Attachment 2 of this Permit, and monitoring, testing or analytical data from monitoring activities, as required by 40 CFR § 264.13 and this permit.

- I.Y.2. Records and results of each waste analysis performed in accordance with this permit. Results of waste analyses are kept for a period of three years.
- I.Y.3. Personnel training documents, certifications, and records, as outlined in Attachment 3 of this Permit, as required by 40 CFR § 264.16(d) and this Permit. Training records for former employees will be maintained for a period of three years, records for current employees will be maintained until closure.
- I.Y.4. Contingency Plan, as seen and referenced in Attachment 4 of this Permit, as required by 40 CFR § 264.53(a) and this Permit.
- I.Y.5. Closure and Post-Closure Plans, as seen in Attachment 5 of this Permit, as required by 40 CFR § 264.112(a) and this Permit.
- I.Y.6. Operating record, containing the documents required by 40 CFR § 264.73 and this Permit.
- I.Y.6.1. Included as part of the operating record are well construction logs, any maintenance performed, and abandonment records.
- I.Y.7. Inspection schedule(s) as required by 40 CFR § 264.15(b)(2) and this Permit. Records of inspections will be maintained for a period of at least three years.
- I.Y.8. RCRA Permit, including all attachments.
- I.Y.9. RCRA Part B Permit Application, including all attachments.
- I.Y.10. Assessment reports pursuant to Permit Condition III., of all incidents that require implementation of the contingency plan.
- I.Y.11. Records of spills and releases.
- I.Y.12. Copies of other permits associated with the hazardous and solid waste management units.
- I.Y.13. Summaries of records of corrective actions, ground-water monitoring well construction, and ground-water monitoring well maintenance and replacement records.

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PART II - GENERAL FACILITY STANDARDS

II.A. Design and Operation of Facility

The Permittee shall maintain and operate the facility: (1) to avoid, reduce, or eliminate waste that may be generated from accidental spills, mishandling of containers, and other such activity; and (2) to minimize the possibility of a fire, explosion, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil, or surface water, which could threaten human health or the environment, as required by 40 CFR § 264.31.

II.B. Required Notice

- II.B.1. When the Permittee is to receive hazardous waste from an offsite source, the Permittee must inform the generator in writing that the Permittee has the appropriate permit(s) for, and will accept the waste the generator is shipping. The Permittee must keep a copy of this written notice for each generator as part of the operating record, in paper or electronic format, in accordance with 40 CFR §§ 264.12(b) and 264.73(b)(7). The Permittee shall notify each generator prior to receipt of hazardous waste from an offsite source of the hazardous wastes it is permitted to receive and store. The Permittee shall re-notify each generator within one (1) week after any permit modification to the hazardous waste codes which the Permittee is permitted to receive and store.

II.C. General Waste Analysis

The Permittee shall comply with the Waste Analysis provisions of 40 CFR § 264.13, and shall implement the procedures outlined in the Waste Analysis Plan, Attachment 2 of this Permit.

II.D. Security

The Permittee shall comply with the security provisions of 40 CFR § 264.14 and shall implement the security measures described in the security plan, included in Attachment 7 of this Permit.

II.E. General Inspection Requirements

The Permittee shall comply with the inspection provisions of 40 CFR § 264.15 and shall implement the inspection plan in Attachment 7 of this Permit.

II.F. Training for Personnel Involved with Hazardous Waste Management Activities

The Permittee shall comply with the personnel training provisions of 40 CFR §

264.16 and shall implement the training program outlined in Attachment 3 of this Permit.

II.G. General Requirements for Ignitable, Reactive, or Incompatible Wastes

The Permittee shall comply with the requirements of 40 CFR § 264.17 and shall implement the procedures for ignitable, reactive or incompatible wastes as described in Attachments 4 and 7 of this Permit.

II.H. Location Standards

The Permittee shall comply with the location standards of 40 CFR § 264.18.

II.I. Preparedness and Prevention

The Permittee shall comply with the preparedness and prevention provisions of 40 CFR §§ 264.31 through 264.37 and as outlined in Attachments 4 and 7 of this Permit.

II.J. Contingency Plan

The Permittee shall comply with the Contingency Planning requirements of 40 CFR §§ 264.50 through 264.56, and shall implement the Contingency Plan, Attachment 4 of this Permit.

II.K. Manifest System

The Permittee shall comply with the manifest requirements for the use of a manifest system, manifest discrepancies, and un-manifested waste reporting, in accordance with 40 CFR §§ 264.71, 264.72, 264.76 and 270.30 (l) (7) & (8).

II.L. Record Keeping and Reporting

In addition to the record keeping and reporting requirements specified elsewhere in this permit, the Permittee shall do the following:

II.L.1. Operating Record: The Permittee shall maintain a written operating record at the facility, in paper or electronic format, in accordance with 40 CFR § 264.73. The Permittee is exempt from 40 CFR § 264.73(b)(8) for closure cost estimates, in accordance with 40 CFR § 264.140.

II.M. Closure and Post-Closure

II.M.1. Performance Standard: The Permittee shall close the facility, as required by 40 CFR § 264.111 and in accordance with the approved Closure Plan, Attachment 5.

II.M.2. Amendment to Closure Plan: The Permittee shall modify the Closure Plan in

writing, in accordance with 40 CFR § 264.112(c), whenever new information would more accurately characterize the manner in which the Permittee intends to close the hazardous waste storage unit. The Administrator may determine that cause exists to modify the Closure Plan at any time, in accordance with 40 CFR § 270.41.

- II.M.3. Notification of Closure: The Permittee shall notify the Administrator in writing at least 45 days prior to the date on which the Permittee expects to begin closure as required by 40 CFR § 264.112(d).
- II.M.4. Time Allowed For Closure: After receiving the final volume of hazardous waste, the Permittee shall remove from storage all hazardous waste and shall complete closure activities, in accordance with 40 CFR § 264.113; and the Closure Plan, Attachment 5.
- II.M.5. Disposal or Decontamination of Equipment, Structures, and Soils: The Permittee shall decontaminate and/or remove and dispose of all contaminated equipment, structures, and soils, as required by 40 CFR § 264.114, 40 CFR § 264.178, and the Closure Plan, Attachment 5.
- II.M.6. Sampling and Analysis Plan: The Permittee shall submit a detailed sampling and analysis plan (SAP) to the Administrator prior to conducting final closure activities in accordance with the schedule in the Closure Plan. The SAP shall include protocols for sampling of the empty storage areas and underlying soils. These protocols will include; the number of samples and sampling grid, sample parameters, specific EPA SW 846 (*Test Methods for Evaluating Soil Waste, Physical/Chemical Methods*) (EPA 1996) methods, location and rationale for background samples, proposed action levels and proposed cleanup levels.
- II.M.7. Certification of Closure: The Permittee shall certify that the facility has been closed, in accordance with the specification in the Closure Plan, as required by 40 CFR § 264.77(b) and 40 CFR § 264.115.

II.N. Pollution Prevention Program

- II.N.1 The Permittee shall comply with the pollution prevention requirements of 40 CFR § 264.73(b)(9). To the extent economically practicable, Air Force Instruction 32-7080, "Pollution Prevention Program," dated 12 May 1994, shall be implemented 
- II.N.2 Incidental to the storage of hazardous waste in the facility, the Permittee will store hazardous materials with the intention of reutilization, transfer, donation or sales of the material on site or off-site. The material will be stored under the same storage and handling considerations as hazardous waste. If reutilization of the material cannot be arranged, then the material will be handled as solid or hazardous waste, as appropriate.

II.O. Equivalent Materials

If certain equipment, materials, procedures, and administrative information (such as names, telephone numbers, or addresses) are specified in this permit, the Permittee is allowed to use an equivalent or superior item. Use of such equivalent or superior items shall not be considered a modification of the permit, but the Permittee shall place a notation of such a revision in the operating record, accompanied by a narrative explanation and the date the revision became effective. The Administrator may judge the soundness of the revision during inspections of the facility and may require the Permittee to reinstate the equipment, materials, procedures or administrative information specified in the permit. The format of tables, forms and figures are not subject to the requirements of this permit, and may be revised according to the Permittee's discretion.

II.P. Air Emission Standards

The Permittee shall comply with the air emission standards outlined in 40 CFR Subpart CC and as outlined in Attachment 7 of this Permit. Specifically, general standards outlined in 40 CFR 264.1082 and standards that apply to emissions from containers outlined in 40 CFR 264.1086 shall be followed.

(intentionally blank)

PART III - STORAGE IN CONTAINERS

III.A. Waste Identification

III.A.1. The Permittee may store the following RCRA hazardous wastes in containers at JBER, subject to the terms of this permit:

Location: Building 11735

Description:

- Batteries: alkaline, lithium, mercury, nickel-cadmium, zinc
- Corrosives: various acids and bases, including chromic, hydrochloric and sulfuric; sodium hydroxide; ammonia hydroxide; and cleaning compounds
- Discarded commercial chemical products identified in Part A
- PCB wastes, including transformers and contaminated soil
- Poisons and pesticides
- Residues generated by open burn/open detonation treatment processes
- Respirator cartridges and charcoal filters containing toxicity-characteristic concentrations of chromium, including oxygen-breathing apparatus canisters.
- Soils contaminated with heavy metals
- Solids and liquids from spill cleanups
- Solvents, chlorinated and non-chlorinated
- Toxicity characteristic wastes (D018 to D039) generated during maintenance and other operations by the Permittee and at the off-site federal installations
- Waste copier dispersant, dye penetrant used in magna-fluxing, ethyl alcohol, and marathon reducer
- Waste paint-related items that may contain solvents and metals. Waste items include latex and enamel paint waste and sludges, epoxy, paint thinner and stripper, coatings and thinners, and paint-booth filters
- Waste fuel and waste oil, and solids contaminated with these materials. This waste may contain solvents and metals
- Wastes from historical operations at federal facilities located throughout Alaska

Permitted RCRA Waste Codes: See Part A Application.

III.A.2. The Permittee may store other discarded commercial chemical products, off-specification species, container residues, and spill residues, as listed in 40 CFR § 261.33 that are not identified in Permit Condition III.A.1, upon satisfying the Permit modification request procedure and receiving approval from the Administrator, as set forth in 40 CFR § 270.42. The storage of different wastes in containers that require additional or different management practices from those authorized in the Permit shall be considered a Class 3 modification. The storage of different wastes in containers that do not require additional or different management practices from those authorized in the Permit shall be considered a Class 2 modification.

III.A.3. The Permittee shall manage newly listed or identified wastes in accordance with 40 CFR § 270.42(g).

III.A.4. The Permittee shall not store any other wastes not specified on the Hazardous Waste Permit Information Form, (EPA Form 8700-23), or in paragraphs III.A.1, III.A.2, or III.A.3 without first obtaining a permit modification in accordance with 40 CFR 164.42.

III.B. Condition of Containers

III.B.1. If a container holding hazardous waste is not in good condition (e.g., corrosion, apparent structural defects, creases or dents, etc.), or if it begins to leak, the Permittee shall transfer the hazardous waste to a container that is in good condition, or otherwise manage the waste in some other way in compliance with 40 CFR § 264.171.

III.B.2. The Permittee shall maintain at all times a sufficient number of empty containers, overpack drums, and drip pans at the hazardous waste storage units to comply with Permit Condition III.B.1.

III.C. Compatibility of Waste with Containers

The Permittee shall use a container made of or lined with materials that will not react with, and are otherwise compatible with, the hazardous waste to be stored, so that the ability of the container to contain the waste is not impaired, as required in 40 CFR § 264.172.

III.D. Management of Containers

III.D.1. The Permittee shall always have containers holding hazardous waste closed during storage, except when it is necessary to add or remove waste, as required in 40 CFR § 264.173(a).

III.D.2. The Permittee shall not open, handle, or store hazardous waste in a manner which may rupture a container or cause it to leak, as required in 40 CFR § 264.173(b).

III.D.3. At any time, the Permittee may store a maximum volume of 120,120 gallons of waste identified in Permit Condition III.A.1. This requirement applies regardless of whether the containers hold hazardous or non-hazardous waste.

III.E. Inspection of Containers and Containment System

III.E.1. The Permittee shall inspect, at least once every seven (7) days, areas where containers are stored, looking for leaking containers and for deterioration of containers and the containment system caused by corrosion, temperature, and/or other factors, as required in 40 CFR § 264.174.

III.E.2. The Permittee shall document the inspections by maintaining the Inspection Log, in paper or electronic format, as required by 40 CFR § 264.15 and described in Attachment 7.

III.E.3. The Permittee shall visually inspect each container for its integrity prior to handling or moving, as required in 40 CFR § 264.31.

III.F. Containment

III.F.1. The Permittee shall maintain and operate the container storage containment system, as designed and described in the attached plans and specifications, Attachment 6, as required in 40 CFR § 264.175.

III.F.2. The Permittee shall operate and maintain the containment system such that the base underlying the containers is free of cracks or gaps and is sufficiently impervious to contain leaks and spills and accumulated precipitation until the collected material is detected and removed, as required in 40 CFR § 264.175(b).

III.F.3. The Permittee shall store free liquids or hazardous waste only in containers that meet the United Nations Performance Oriented Packaging specifications for that particular type of waste. The containment system for these wastes must have sufficient capacity to contain 10 percent (10%) of the storage capacity of the containment system or the volume of the largest container being stored, whichever is greater, as required in 40 CFR § 264.175(b)(3).

III.F.4. The Permittee shall remove spilled or leaked waste and accumulated precipitation from the sump or collection area in a manner as is necessary to prevent overflow of the collection system and in a manner to keep the containers from contact with the liquids/material in the collection area. The Permittee shall manage the collected material in accordance with 40 CFR § 264.175(b)(5). If the collected material is a hazardous waste under 40 CFR Part 261, it must be managed in accordance with all applicable requirements of 40 CFR Parts 262 through 266.

III.G. Special Requirements for Incompatible Waste

- III.G.1. The Permittee shall separate containers of incompatible wastes, as required by 40 CFR § 264.177 and as described in Attachment 7 of this permit, Procedures to Prevent Hazards.
- III.G.2. Notwithstanding Permit Condition III.G.1., the Permittee shall not place incompatible wastes or incompatible wastes and materials in the same container, nor place hazardous waste in an unwashed container that previously held an incompatible waste or material, as required in 40 CFR § 264.177.
- III.G.3. Notwithstanding Permit Condition III.G.1., the Permittee shall separate or otherwise protect any storage container holding hazardous waste from any incompatible wastes or materials by means of a dike, berm, wall, or other appropriate device, such as an overpack drum, salvage drum, or drip pan, as required in 40 CFR § 264.177.
- III.G.4. Notwithstanding Permit Conditions III.A.1-3, the Permittee shall not place incompatible wastes, or incompatible wastes and materials in the same bay, unless the Permittee complies with 40 CFR § 264.17(a)-(c) and Permit Condition II.G.

III.H. Prohibitions of Storage of Restricted Wastes

- III.H.1. The Permittee is prohibited from receiving or storing hazardous wastes restricted from land disposal, unless the conditions required in 40 CFR § 268.50 are met.
- III.H.2. The Permittee shall store land disposal restriction (LDR) hazardous waste in tanks or containers onsite solely for the purpose of the accumulation of such quantities of hazardous waste as necessary to facilitate proper recovery, treatment, or disposal and each container shall be clearly marked to identify its contents and the date each period of accumulation begins, as required by 40 CFR § 268.50(a)(2). The Permittee shall not store hazardous waste to circumvent or forestall the treatment requirements of 40 CFR Part 268.
- III.H.3. The Permittee shall store LDR wastes for no more than three-hundred sixty-five (365) days, unless the Permittee can demonstrate to the satisfaction of the Administrator that such storage is/was solely for the purpose of accumulation of such quantities of hazardous waste as are necessary to facilitate proper recovery, treatment, or disposal, as required in 40 CFR § 268.50(b)&(c). The Permittee shall provide a written demonstration if the waste has been stored for greater than three-hundred sixty-five (365) days and in accordance with Permit Condition III.H.2. This three-hundred sixty-five (365) day limitation does not apply to wastes subject to an approved petition, a nationwide variance, or an approved extension, nor to a waste that meets the treatment standard.

- III.H.4. The Permittee shall not dilute a restricted waste, in any manner, in accordance with 40 CFR § 268.3.
- III.H.5. The Permittee shall receive from the generator all necessary notices, notifications, and certifications that are required to determine if a waste is restricted from land disposal, in accordance with 40 CFR § 268.7.
- III.H.6. The Permittee shall comply with the notice, notification, and certification requirements under 40 CFR § 268.7 when sending waste or treatment residue off-site, in accordance with 40 CFR § 268.7(b)(6).
- III.H.7. The Permittee shall keep all copies of each applicable generator's demonstration and certification in the Permittee's operating record when the waste received is subject to a valid certification in accordance with 40 CFR § 264.73(b).
- III.H.8. It is the duty of the Permittee to request a modification of this Permit in the event that the Permittee believes any permit condition in Permit Condition III.H. prevents the ability of the Permittee to comply with 40 CFR Part 268, in accordance with 40 CFR §§ 270.4(a) & 270.41(a).

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PART IV – CORRECTIVE ACTION FOR SOLID WASTE MANAGEMENT UNITS

IV.A. CERCLA Section 120 Federal Facility Agreement

- IV.A.1. Section 3004(u) of RCRA (Section 206 of HSWA) and regulations promulgated at 40 CFR § 264.101 require corrective action, as necessary, to protect human health and the environment for all releases of hazardous waste or hazardous constituents from any solid waste management unit (SWMU), for all permits issued after 8 November 1984. A Federal Facility Agreement (FFA) under Section 120(e)(2) of CERCLA is a mechanism used to investigate and clean up releases of hazardous waste and constituents to protect human health and the environment. All investigations and cleanups included in the FFA will meet or exceed all applicable or relevant and appropriate state and federal requirements, including RCRA, to the extent required by Section 121 of CERCLA, 42 U.S.C. § 9621.IV.A.2. The corrective action for JBER will be satisfied by the FFA, which was dated by EPA on 19 September 1991, and became effective on 15 November 1991. Compliance with the FFA is made a condition of this permit and the FFA is included in this permit as Attachment 9. The corrective action requirement of 40 CFR § 264.101 will be satisfied by the FFA, except for:
- IV.A.2.a. Those units that the parties to the FFA transfer to the Corrective Action Schedule of Compliance in Attachment 8;
- IV.A.2.b. Those SWMUs that the Parties to the FFA formally identify as outside the scope of the FFA;
- IV.A.2.c. Those newly identified SWMUs that the Parties to the FFA identify as outside the scope of the FFA, which EPA determines to be subject to corrective action; or
- IV.A.2.d. Those SWMUs that are discovered after the termination of the FFA, which EPA determines will be subject to corrective action..
- IV.A.3. All SMWUs at JBER shall be appropriately addressed either under the FFA or directly under this permit. The Permittee shall notify EPA of SWMUs that are not being addressed by the FFA. For SWMUs subject to paragraphs IV.A.2.a and IV A.2.b, such notice shall be provided within 30 days of the effective date of this Permit. For SWMUs subject to paragraphs IV.A.2.c and IV.A.2.d, such notice shall be provided within 30 days of the identification or discovery, subject to EPA approval.
- IV.A.4. The SWMUs that are presently being addressed under the FFA are listed in Attachment 8, "Corrective Action for Solid Waste Management Units."

IV.B. Newly-Identified or Newly-Created Solid Waste Management Units

- IV.B.1. The Permittee shall notify the Administrator in writing of any newly-identified or newly-created SWMU(s) that are not covered by this permit or the FFA, as set out in Attachment 8. This notice shall be provided no later than fifteen (15) calendar days after discovery of the newly identified or created SWMU(s).
- IV.B.2. Within ninety (90) calendar days after the notification provided in accordance with permit condition IV.B.1, the Permittee shall prepare a SWMU Assessment Report. At a minimum, the Report shall provide the following information for each newly-identified or newly-created SWMU:
- IV.B.2.a. The location of each newly-identified SWMU in relation to other SWMUs, building numbers, or other descriptive landmarks;
- IV.B.2.b. The type and function of the unit;
- IV.B.2.c. The general dimensions, capacities, and structural description of the unit (supply any available drawings);
- IV.B.2.d. The period during which the unit was operated;
- IV.B.2.e. The specifics on all wastes that have been or are being managed at the SWMU, to the extent available; and
- IV.B.2.f. A description of any release (or suspected release) of hazardous constituents originating from the unit, including planned or unplanned releases to the air. Include information on the date of release, type of hazardous waste or hazardous constituents, quantity released, nature of the release, extent of release migration, and cause of release (e.g. overflow, broken pipe, tank leak, etc.). Also provide any available data which would quantify the nature and extent of environmental contamination, including the results of soil and/or groundwater sampling and analysis efforts. Likewise, submit any existing monitoring information that indicates release of hazardous waste or hazardous constituents has not occurred or is not occurring.
- IV.B.3. Based on the results of this Report, the Administrator shall determine the need for further investigations at specific unit(s) covered in the SWMU Assessment Report. If the Administrator determines that such investigations are needed, the Administrator may require the Permittee to prepare an RFI workplan and/or RFI report within a specified time and in accordance with EPA guidance. If the Administrator determines that corrective measures are required, the Permittee shall submit a request for a permit modification to implement corrective measures.

IV.C. Newly-Discovered Releases at Solid Waste Management Units

IV.C.1 The Permittee shall notify the Administrator, in writing, of any release(s) of hazardous waste or hazardous constituents from any SWMU. Such newly-discovered releases may be from newly-identified SWMU's, from SWMU's at which the Administrator had previously determined that no further investigation was necessary, or from SWMU's investigated as part of this permit. This notification shall be submitted in two parts:

IV.C.1.a First, within fifteen (15) calendar days of discovery of the release the Permittee shall submit in writing an initial notification report of the discovery. This notification shall alert the Agency to the magnitude of the threat.

IV.C.1.b Second, within sixty (60) days of such a discovery the Permittee must submit a written report. The report shall discuss the Permittee's efforts to investigate and/or remediate the discovered release and shall specifically include:

- i. the concentrations and estimated quantities of any hazardous wastes or hazardous constituents released;
- ii. the known, or expected, pathway(s) through which the contamination is migrating (or may migrate), and the extent, rate, and direction of that migration;
- iii. the projected fate and transport of the release;
- iv. the likely exposure pathway(s) for potential receptors, and the consequences of exposure to these receptors; and,
- v. an outline of proposed Interim Measures to arrest the release, as well as a schedule for implementing the Measures. The schedule should be justified by a discussion of possible consequences arising from any delay in implementing Interim Measures.

IV.C.2 If, based either on information submitted in IV.B.1 or IV.C.1 above, or on information obtained during the investigation or monitoring of the facility, the Agency determines at any time that a threat to human health or the environment may result from a release at the facility, the Permittee will be directed by a notification from the Agency to implement interim corrective measures designed to minimize the threat to human health and the environment, subject to review and approval by the Agency. Interim corrective measures are subject to the dispute resolution procedures in permit condition V.N. Implementation by the Permittee of treatment or containment activities taken during immediate response to a

discharge of hazardous waste, an imminent and substantial threat of a discharge of hazardous waste, or a discharge of material which, when discharged, becomes a hazardous waste, is not subject to this permit. [40 C.F.R. § 270.1(c)(3)]

IV.C.3 Within ninety (90) days of discovery of a release, the Permittee shall submit a Report describing the interim corrective measures activities taken to date. This Report shall include the reporting requirements specified in permit condition IV.A. If the Administrator determines that additional investigation or corrective measures are required, the Permittee shall submit a request for a permit modification to investigate and perform additional corrective measures, or the Agency may initiate a permit modification.

IV.D. Date/Deadline Changes

Revisions to Attachment 9 of this Permit (the FFA), resulting from amendments to the FFA dates/deadlines, shall not require a permit modification if all parties to the FFA have agreed upon such revisions.

ATTACHMENT G

Joint Base Elmendorf Richardson, Alaska

EPA ID No. AK8 57002 8649

***Final RCRA Permit Renewal
Application***

***Part A: RCRA Subtitle C Site Identification
Form***

November 2022

United States Environmental Protection Agency RCRA SUBTITLE C SITE IDENTIFICATION FORM	
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1. Reason for Submittal (Select only one.)

<input type="checkbox"/>	Obtaining or updating an EPA ID number for on-going regulated activities (Items 10-17 below) that will continue for a period of time.
<input type="checkbox"/>	Submitting as a component of the Hazardous Waste Report for _____ (Reporting Year)
<input type="checkbox"/>	Site was a TSD facility, a reverse distributor, and/or generator of $\geq 1,000$ kg of non-acute hazardous waste, > 1 kg of acute hazardous waste, or > 100 kg of acute hazardous waste spill cleanup in one or more months of the reporting year (or State equivalent LQG regulations)
<input type="checkbox"/>	Notifying that regulated activity is no longer occurring at this Site
<input type="checkbox"/>	Obtaining or updating an EPA ID number for conducting Electronic Manifest Broker activities
<input checked="" type="checkbox"/>	Submitting a new or revised Part A (permit) Form

2. Site EPA ID Number

A	K	8	5	7	0	0	2	8	6	4	9
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3. Site Name

Joint Base Elemendorf-Richardson (JBER)
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4. Site Location Address

Street Address 10471 20th Street, Suite 139		
City, Town, or Village JBER		County None
State AK	Country USA	Zip Code 99506-2200
Latitude 61° 14' N	Longitude 149° 48' W	<input type="checkbox"/> Use Lat/Long as Primary Address

5. Site Mailing Address

Same as Location Street Address

Street Address 10471 20th Street, Suite 139		
City, Town, or Village JBER		
State AK	Country USA	Zip Code 99506-2200

6. Site Land Type

<input type="checkbox"/> Private	<input type="checkbox"/> County	<input type="checkbox"/> District	<input checked="" type="checkbox"/> Federal	<input type="checkbox"/> Tribal	<input type="checkbox"/> Municipal	<input type="checkbox"/> State	<input type="checkbox"/> Other
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7. North American Industry Classification System (NAICS) Code(s) for the Site (at least 5-digit codes)

A. (Primary) 928110	C.
B.	D.

8. Site Contact Information

 Same as Location Address

First Name	Mark	MI	Last Name	Prieksat	
Title	Deputy Commander, 673d CES/CD				
Street Address	6346 Arctic Warrior Drive				
City, Town, or Village	JBER				
State	Alaska	Country	USA	Zip Code	99506-3221
Email	mark.prieksat@us.af.mil				
Phone	(907) 384-3092	Ext	None	Fax	None

9. Legal Owner and Operator of the Site

A. Name of Site's Legal Owner

 Same as Location Address

Full Name	673d Air Base Wing	Date Became Owner (mm/dd/yyyy)	9/1/1983
Owner Type	<input type="checkbox"/> Private <input type="checkbox"/> County <input type="checkbox"/> District <input checked="" type="checkbox"/> Federal <input type="checkbox"/> Tribal <input type="checkbox"/> Municipal <input type="checkbox"/> State <input type="checkbox"/> Other		
Street Address	10471 20th Street, Suite 139		
City, Town, or Village	JBER		
State	Alaska	Country	USA
Zip Code	99506-2200		
Email	None		
Phone	907-552-3000	Ext	None
Fax	None		
Comments			

B. Name of Site's Legal Operator

 Same as Location Address

Full Name	673d Air Base Wing	Date Became Operator (mm/dd/yyyy)	9/1/1983
Operator Type	<input type="checkbox"/> Private <input type="checkbox"/> County <input type="checkbox"/> District <input checked="" type="checkbox"/> Federal <input type="checkbox"/> Tribal <input type="checkbox"/> Municipal <input type="checkbox"/> State <input type="checkbox"/> Other		
Street Address	10471 20th Street, Suite 139		
City, Town, or Village	JBER		
State	Alaska	Country	USA
Zip Code	99506-2200		
Email			
Phone	907-552-3000	Ext	None
Fax	None		
Comments			

10. Type of Regulated Waste Activity (at your site)

Mark "Yes" or "No" for all current activities (as of the date submitting the form); complete any additional boxes as instructed.

A. Hazardous Waste Activities

<input checked="" type="checkbox"/> Y <input type="checkbox"/> N	1. Generator of Hazardous Waste—If "Yes", mark only one of the following—a, b, c	
<input checked="" type="checkbox"/>	a. LQG	-Generates, in any calendar month, 1,000 kg/mo (2,200 lb/mo) or more of non-acute hazardous waste (includes quantities imported by importer site); or - Generates, in any calendar month, or accumulates at any time, more than 1 kg/mo (2.2 lb/mo) of acute hazardous waste; or - Generates, in any calendar month or accumulates at any time, more than 100 kg/mo (220 lb/mo) of acute hazardous spill cleanup material.
<input type="checkbox"/>	b. SQG	100 to 1,000 kg/mo (220-2,200 lb/mo) of non-acute hazardous waste and no more than 1 kg (2.2 lb) of acute hazardous waste and no more than 100 kg (220 lb) of any acute hazardous spill cleanup material.
<input type="checkbox"/>	c. VSQG	Less than or equal to 100 kg/mo (220 lb/mo) of non-acute hazardous waste.
<input type="checkbox"/> Y <input checked="" type="checkbox"/> N	2. Short-Term Generator (generates from a short-term or one-time event and not from on-going processes). If "Yes", provide an explanation in the Comments section. <i>Note: If "Yes", you MUST indicate that you are a Generator of Hazardous Waste in Item 10.A.1 above.</i>	
<input type="checkbox"/> Y <input checked="" type="checkbox"/> N	3. Treater, Storer or Disposer of Hazardous Waste—Note: Part B of a hazardous waste permit is required for these activities.	
<input type="checkbox"/> Y <input checked="" type="checkbox"/> N	4. Receives Hazardous Waste from Off-site	
<input type="checkbox"/> Y <input checked="" type="checkbox"/> N	5 Recycler of Hazardous Waste	
<input type="checkbox"/>	a. Recycler who stores prior to recycling	
<input type="checkbox"/>	b. Recycler who does not store prior to recycling	
<input type="checkbox"/> Y <input checked="" type="checkbox"/> N	6. Exempt Boiler and/or Industrial Furnace—If "Yes", mark all that apply.	
<input type="checkbox"/>	a. Small Quantity On-site Burner Exemption	
<input type="checkbox"/>	b. Smelting, Melting, and Refining Furnace Exemption	

B. Waste Codes for Federally Regulated Hazardous Wastes. Please list the waste codes of the Federal hazardous wastes handled at your site. List them in the order they are presented in the regulations (e.g. D001, D003, F007, U112). Use an additional page if more spaces are needed.

D001	D006	D011	D022	D027	D032	D037
D002	D007	D018	D023	D028	D033	D038
D003	D008	D019	D024	D029	D034	D039
D004	D009	D020	D025	D030	D035	D040
D005	D010	D021	D026	D031	D036	D041

C. Waste Codes for State Regulated (non-Federal) Hazardous Wastes. Please list the waste codes of the State hazardous wastes handled at your site. List them in the order they are presented in the regulations. Use an additional page if more spaces are needed.

11. Additional Regulated Waste Activities (NOTE: Refer to your State regulations to determine if a separate permit is required.)**A. Other Waste Activities**

<input type="checkbox"/> Y <input checked="" type="checkbox"/> N	1. Transporter of Hazardous Waste—If “Yes”, mark all that apply.
<input type="checkbox"/>	a. Transporter
<input type="checkbox"/>	b. Transfer Facility (at your site)
<input type="checkbox"/> Y <input checked="" type="checkbox"/> N	2. Underground Injection Control
<input type="checkbox"/> Y <input checked="" type="checkbox"/> N	3. United States Importer of Hazardous Waste
<input type="checkbox"/> Y <input checked="" type="checkbox"/> N	4. Recognized Trader—If “Yes”, mark all that apply.
<input type="checkbox"/>	a. Importer
<input type="checkbox"/>	b. Exporter
<input type="checkbox"/> Y <input checked="" type="checkbox"/> N	5. Importer/Exporter of Spent Lead-Acid Batteries (SLABs) under 40 CFR 266 Subpart G—If “Yes”, mark all that apply.
<input type="checkbox"/>	a. Importer
<input type="checkbox"/>	b. Exporter

B. Universal Waste Activities

<input checked="" type="checkbox"/> Y <input type="checkbox"/> N	1. Large Quantity Handler of Universal Waste (you accumulate 5,000 kg or more) - If “Yes” mark all that apply. Note: Refer to your State regulations to determine what is regulated.
<input checked="" type="checkbox"/>	a. Batteries
<input type="checkbox"/>	b. Pesticides
<input checked="" type="checkbox"/>	c. Mercury containing equipment
<input checked="" type="checkbox"/>	d. Lamps
<input checked="" type="checkbox"/>	e. Aerosol Cans
<input type="checkbox"/>	f. Other (specify) _____
<input type="checkbox"/>	g. Other (specify) _____
<input type="checkbox"/> Y <input checked="" type="checkbox"/> N	2. Destination Facility for Universal Waste Note: A hazardous waste permit may be required for this activity.

C. Used Oil Activities

<input type="checkbox"/> Y <input checked="" type="checkbox"/> N	1. Used Oil Transporter—If “Yes”, mark all that apply.
<input type="checkbox"/>	a. Transporter
<input type="checkbox"/>	b. Transfer Facility (at your site)
<input type="checkbox"/> Y <input checked="" type="checkbox"/> N	2. Used Oil Processor and/or Re-refiner—If “Yes”, mark all that apply.
<input type="checkbox"/>	a. Processor
<input type="checkbox"/>	b. Re-refiner
<input type="checkbox"/> Y <input checked="" type="checkbox"/> N	3. Off-Specification Used Oil Burner
<input checked="" type="checkbox"/> Y <input type="checkbox"/> N	4. Used Oil Fuel Marketer—If “Yes”, mark all that apply.
<input type="checkbox"/>	a. Marketer Who Directs Shipment of Off-Specification Used Oil to Off-Specification Used Oil Burner
<input checked="" type="checkbox"/>	b. Marketer Who First Claims the Used Oil Meets the Specifications

D. Pharmaceutical Activities

<input checked="" type="checkbox"/> Y <input type="checkbox"/> N	1. Operating under 40 CFR Part 266, Subpart P for the management of hazardous waste pharmaceuticals—if “Yes”, mark only one. Note: See the item-by-item instructions for definitions of healthcare facility and reverse distributor.
	<input checked="" type="checkbox"/> a. Healthcare Facility
	<input type="checkbox"/> b. Reverse Distributor
<input type="checkbox"/> Y <input checked="" type="checkbox"/> N	2. Withdrawing from operating under 40 CFR Part 266, Subpart P for the management of hazardous waste pharmaceuticals. Note: You may only withdraw if you are a healthcare facility that is a VSQG for all of your hazardous waste, including hazardous waste pharmaceuticals.

12. Eligible Academic Entities with Laboratories—Notification for opting into or withdrawing from managing laboratory hazardous wastes pursuant to 40 CFR Part 262, Subpart K.

<input type="checkbox"/> Y <input checked="" type="checkbox"/> N	A. Opting into or currently operating under 40 CFR Part 262, Subpart K for the management of hazardous wastes in laboratories— If “Yes”, mark all that apply. Note: See the item-by-item instructions for definitions of types of eligible academic entities.
	<input type="checkbox"/> 1. College or University
	<input type="checkbox"/> 2. Teaching Hospital that is owned by or has a formal written affiliation with a college or university
	<input type="checkbox"/> 3. Non-profit Institute that is owned by or has a formal written affiliation with a college or university
<input type="checkbox"/> Y <input checked="" type="checkbox"/> N	B. Withdrawing from 40 CFR Part 262, Subpart K for the management of hazardous wastes in laboratories.

13. Episodic Generation

<input type="checkbox"/> Y <input checked="" type="checkbox"/> N	Are you an SQG or VSQG generating hazardous waste from a planned or unplanned episodic event, lasting no more than 60 days, that moves you to a higher generator category. If “Yes”, you must fill out the Addendum for Episodic Generator.
--	---

14. LQG Consolidation of VSQG Hazardous Waste

<input type="checkbox"/> Y <input checked="" type="checkbox"/> N	Are you an LQG notifying of consolidating VSQG Hazardous Waste Under the Control of the Same Person pursuant to 40 CFR 262.17(f)? If “Yes”, you must fill out the Addendum for LQG Consolidation of VSQG hazardous waste.
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15. Notification of LQG Site Closure for a Central Accumulation Area (CAA) (optional) OR Entire Facility (required)

<input type="checkbox"/> Y <input checked="" type="checkbox"/> N	LQG Site Closure of a Central Accumulation Area (CAA) or Entire Facility.
	A. <input type="checkbox"/> Central Accumulation Area (CAA) or <input type="checkbox"/> Entire Facility
	B. Expected closure date: _____ mm/dd/yyyy
	C. Requesting new closure date: _____ mm/dd/yyyy
	D. Date closed : _____ mm/dd/yyyy
	<input type="checkbox"/> 1. In compliance with the closure performance standards 40 CFR 262.17(a)(8)
	<input type="checkbox"/> 2. Not in compliance with the closure performance standards 40 CFR 262.17(a)(8)

16. Notification of Hazardous Secondary Material (HSM) Activity

<input type="checkbox"/> Y <input checked="" type="checkbox"/> N	Are you notifying under 40 CFR 260.42 that you will begin managing, are managing, or will stop managing hazardous secondary material under 40 CFR 260.30, 40 CFR 261.4(a)(23), (24), (25), or (27)? If "Yes", you must fill out the Addendum to the Site Identification Form for Managing Hazardous Secondary Material.
--	---

17. Electronic Manifest Broker

<input type="checkbox"/> Y <input checked="" type="checkbox"/> N	Are you notifying as a person, as defined in 40 CFR 260.10, electing to use the EPA electronic manifest system to obtain, complete, and transmit an electronic manifest under a contractual relationship with a hazardous waste generator?
--	--

18. Comments (include item number for each comment)

<p>Section 1 comments: Regulated activities (treatment, storage, disposal) are no longer occurring at 11735 Vandenberg Avenue by the operator.</p> <p>Additional waste codes for section 10B: D042, D043, F001, F002, F003, F004, F005, F027, P001, P012, P015, P021, P030, P042, P047, P058, P098, P106, P121, P122, U002, U019, U029, U031, U036, U043, U045, U051, U129, U132, U135, U142, U151, U154, U159, U160, U161, U188, U211, U220, U223, U226, U227, U228, U231, U239, U240, U248.</p> <p>There is no confidential information included with this permit renewal application.</p>

19. Certification I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations. **Note: For the RCRA Hazardous Waste Part A permit Application, all owners and operators must sign (see 40 CFR 270.10(b) and 270.11).**

Signature of legal owner, operator or authorized representative WILSON.DAVID.JAMES [REDACTED]	Date (mm/dd/yyyy) 12/22/2022
Printed Name (First, Middle Initial Last) David J. Wilson	Title Commander 673d Air Base Wing
Email david.wilson.14@us.af.mil	
Signature of legal owner, operator or authorized representative	Date (mm/dd/yyyy)
Printed Name (First, Middle Initial Last)	Title
Email	

ATTACHMENT H

RESPONSE TO COMMENTS
DRAFT HAZARDOUS WASTE MANAGEMENT PERMIT
JOINT BASE ELMENDORF-RICHARDSON
SEPTEMBER 30, 2023

The U.S. Environmental Protection Agency opened a public comment period on the draft Permit on July 24, 2023. The draft Permit and Fact Sheet supporting the draft Permit were made available to the public and the Permittee at that time. The comment period was open from July 24 through September 7, 2023. The EPA received one timely written comment submitted jointly by Laura Olah, Executive Director, Citizens for Safe Water Around Badger (CSWAB) and Pamela Miller, Executive Director, Alaska Community Action on Toxics (ACAT).

Pursuant to 40 CFR § 124.17, a response to comments (RTC) must be prepared at the time a final permit decision is issued. The RTC is included in the administrative record (AR) for the final permit decision. New materials can be added to the AR through the RTC if new points are raised or new materials submitted during the public comment period. The final permit decision was issued on September 30, 2023 (Final Permit).

This RTC responds to all comments received from the public by the end of the comment period. The EPA is responding in this RTC to CSWAB's formal written comment.

EPA's Responses: Comment #1 was submitted jointly by Laura Olah, Executive Director, Citizens for Safe Water Around Badger (CSWAB) and Pamela Miller, Executive Director, Alaska Community Action on Toxics (ACAT) on September 5, 2023.

Comment #1:

(Excerpted from "EPA Set to Defer Cleanup of Alaska Burn Pits for Decades, Again")

The longer cleanup and closure of the OB/OD areas at Joint Base Elmendorf-Richardson are deferred, the greater the RISK to human health and the environment and the greater the CERTAINTY that the military will argue that restoration and cleanup are technically and economically infeasible – leaving this toxic legacy for generations to come. For all these reasons, we strongly object to any further deferral or delay of cleanup and closure at Joint Base Elmendorf-Richardson.

Response #1:

The EPA thanks the commenter for their comment and shares their concern for human health and the environment at JBER. The EPA will require JBER to collect additional environmental information pursuant to 40 CFR 264.601 to determine if the OB/OD unit in delayed closure

presents an unreasonable risk to human health and the environment. In addition, a placeholder condition has been added to the permit (II.B. Environmental Performance Standards for OB/OD Unit, 40 CFR Part 264 Subpart X) that will later be populated through an agency-initiated modification if the EPA determines that additional actions are necessary to ensure protection of human health and the environment based on the new information.

ATTACHMENT I



**DEPARTMENT OF THE AIR FORCE
AIR FORCE CIVIL ENGINEER CENTER
JOINT BASE SAN ANTONIO LACKLAND TEXAS**

13 December 2016

MEMORANDUM FOR DISTRIBUTION

FROM: AFCEC/CZOP
10471 20th Street, Suite 317
JBER, AK 99506-3221

SUBJECT: Incorporation of SO552 (ST402) – Building (BLDG) 8321 Waste Oil Tank into the JBER-Elmendorf (JBER-E) Federal Facility Agreement (FFA)

SO552 (ST402) – BLDG 8321 Waste Oil Tank is located west of Jerstad Avenue between Fighter Drive and Johnson Avenue, immediately adjacent to the northwest side of Building 8326 in an industrial area of JBER-E. SO552 is the former location of a 500-gallon waste oil underground storage tank (UST) that was on the northwest side of Building 8326 (formerly Building 32-127). The UST received waste oil from an oil-water separator (OWS) located inside the building. Prior to the 1994 UST decommissioning, the aqueous discharge from the OWS system was routed to an abandoned timber crib leach field located west of the former UST location. At the time of a follow-on investigation in 1997, the OWS was plumbed into the Base sanitary sewer system.

Multiple sampling events have been conducted at SO552 over the years. During groundwater monitoring events from 2006-2012, groundwater sample results showed that benzene, TCE, chlorobenzene, GRO and DRO concentrations exceeded 18 AAC 75 Table B1 and Table B2 cleanup levels. Although TCE and chlorobenzene have been detected in groundwater in monitoring wells on-site, it was considered to be originating from OU3MW-25 in association with OU3. This well is up gradient of the site and had shown the presence of TCE and chlorobenzene contaminants during groundwater monitoring from 1993-2009.

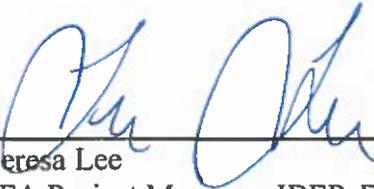
A Site Characterization and Risk assessment was conducted from July 2013-February 2015. A total of five LIF probes, seven soil borings, and two monitoring wells were installed at SO552 in 2013. Nine soil samples, collected from within the NAPL-contaminated soil source area, were analyzed for VOCs, GRO, DRO, and RRO. Additionally, four of these samples were analyzed for PAH, VPH and EPH. Soil borings 13SO552-SB04 and 13SO552-SB05 were converted to monitoring wells 402WL-04 and 402WL-05, respectively. Groundwater samples were collected from five monitoring wells (402WL-01, 402WL-02, 402WL-04, 402WL-05, and 402MW-DG). These samples were analyzed for VOCs, GRO, DRO and RRO. Four groundwater samples were also analyzed for PAH, VPH and EPH. One soil gas probe was installed and one sample collected (plus duplicate) from the soil gas probe during two separate events. All soil gas samples were analyzed for the following VOCs: 1,2,4-trimethylbenzene, 1,3,5-trimethylbenzene, 1,4-dichlorobenzene, benzene, ethylbenzene, total xylenes, naphthalene and TCE.

JBER-Elmendorf
Federal Facility Agreement
Incorporation of SO552 into FFA

The SO552 2013/2014/2015 investigation results indicate that concentrations of petroleum hydrocarbons and waste oil-related VOCs are the primary chemicals of concern, and are present above their most conservative 18 AAC 75 Table B1 screening criteria from approximately 12 to 15.5 feet below ground surface (bgs) and in groundwater above 18 AAC 75 Table C groundwater levels. Trichloroethylene was found to be present at concentrations ranging between 0.04 to 0.63 mg/kg in eight samples collected from soil borings 13SO552SB-02 and 13SO552SB-03, 13SO552SB-06 and 13SO552SB-07. These concentrations exceed the 18 AAC 75 Table B1 cleanup level and indicate that the groundwater contamination derives from these soils and not the up gradient site as previously determined.

Based on site-specific information indicating that CERCLA contaminants are present in the soil, the Project Managers agree that SO552 – BLDG 8321 Waste Oil Tank will be incorporated into the JBER-E FFA as a new site subject to the stipulations listed in the FFA, including Attachment 1. Upon approval, this document will be attached to the current FFA (effective 19 Sep 1991).

Signature below indicates concurrence with the request to incorporate SO552 into the JBER-E FFA:



Teresa Lee
FFA Project Manager, JBER-E, Alaska
U.S. Air Force

13 Dec 16

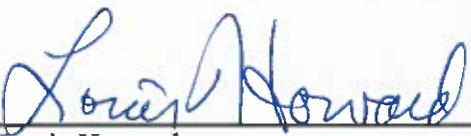
Date



Sandra Halstead
FFA Project Manager, JBER-E, Alaska
U.S. Environmental Protection Agency

12/13/2016

Date



Louis Howard
FFA Project Manager, JBER-E, Alaska
Alaska Department of Environmental Conservation
Division of Spill Prevention and Response
Contaminated Sites Program

Dec. 13, 2016

Date

ATTACHMENT J



**DEPARTMENT OF THE AIR FORCE
AIR FORCE CIVIL ENGINEER CENTER
JOINT BASE SAN ANTONIO LACKLAND TEXAS**

10 March 2023

MEMORANDUM FOR DISTRIBUTION

FROM: AFCEC/CZOP
10471 20th Street, Suite 345
JBER, AK 99506-3221

SUBJECT: Incorporation of Per- and Polyfluoroalkyl Substances (PFAS) Sites into the JBER-Elmendorf (JBER-E) Federal Facility Agreement (FFA)

1. Nineteen sites having PFAS in soil and/or groundwater exceeding Environmental Protection Agency (EPA) Regional Screening Levels (RSL) will be added to the JBER-E FFA. Site locations are shown on the attached Figure 1. The nineteen sites are listed below.

- SS135P (C17 Debris Yard)
- SS136P (Current AFFF Test Area)
- SS137P (Corrosion Control)
- SS138P (Current Fire Training Area)
- SS139P (Former AFFF Test Area)
- SS140P (Fire Station 1)
- SS141P (Fire Station 6)
- SS142P (Fire Station 7)
- SS143P (Fire Suppression Foam Storage)
- SS144P (Hangar 5 Test Area)
- SS145P (Hangar 6)
- SS146P (Hangar 10)
- SS147P (Hangar 16)
- SS148P (Hangar 17)
- SS150P (Cessna Crash Site)
- SS152P (Airlifter Road PFAS)
- SS155P (Hangar 18)
- SS156P (Hangar 8)
- SS159P (C-17 Crash Location)

2. A Site Inspection (SI) for Aqueous Film Forming Foam (AFFF) Areas was performed in 2016 at twenty-six locations on JBER-E and JBER-Richardson (JBER-R). The AFFF areas included in the SI were selected based upon the Preliminary Assessment Report for Perfluorinated Compounds at Joint Base Elmendorf-Richardson. Soil and/or groundwater samples were collected from each site and submitted for PFAS analysis. The attached Table 1 summarizes information from the SI for each site.

3. The 2016 SI PFAS sample results were compared to the May 2022 EPA RSLs for three PFAS constituents; perfluorooctanoic acid (PFOA), perfluorooctane sulfonate (PFOS), and perfluorobutane sulfonate (PFBS). Soil and/or groundwater samples exceeded one or more PFAS RSL for each of the nineteen JBER-E sites. The attached Table 1 includes the PFAS sample result comparisons for each site.

**JBER-Elmendorf (JBER-E)
Federal Facility Agreement
Document Schedule
Incorporation of PFAS Sites into FFA**

1. Based on site-specific information indicating that PFAS contaminants are present in soil and/or groundwater, the Project Managers agree that the sites listed below will be incorporated into the FFA as new sites subject to the stipulations listed in the FFA and Attachment 1 (effective 19 Sep 1991).

2. The nineteen sites PFAS sites added to the JBER-E FFA are listed below.

- SS135P (C17 Debris Yard)
- SS136P (Current AFFF Test Area)
- SS137P (Corrosion Control)
- SS138P (Current Fire Training Area)
- SS139P (Former AFFF Test Area)
- SS140P (Fire Station 1)
- SS141P (Fire Station 6)
- SS142P (Fire Station 7)
- SS143P (Fire Suppression Foam Storage)
- SS144P (Hangar 5 Test Area)
- SS145P (Hangar 6)
- SS146P (Hangar 10)
- SS147P (Hangar 16)
- SS148P (Hangar 17)
- SS150P (Cessna Crash Site)
- SS152P (Airlifter Road PFAS)
- SS155P (Hangar 18)
- SS156P (Hangar 8)
- SS159P (C-17 Crash Location)

3. The following document schedule will be included as an attachment to the FFA:

<u>Document Type</u>	<u>Document</u>	<u>Date Due for Agency Review</u>
Primary	Draft Phase I RIMP	05 May 2021
Primary	Draft Phase I RIMP Addendum 1	08 Aug 2022
Primary	Draft Phase I RIMP Addendum 2	16 Nov 2023
Primary	Draft Phase I RI Report	28 Apr 2025
Primary	Draft Phase II RI Management Plan	05 May 2026
Primary	Draft Phase II RI Report	31 Jan 2028
Primary	Draft FS Report	31 Jan 2030
Secondary	Draft Proposed Plan	30 May 2031
Primary	Draft Record of Decision	31 Dec 2032

4. This schedule may be updated or modified to include additional primary or secondary documents as necessary to meet FFA requirements

Please Circle One:

CONCUR / NON-CONCUR

CONCUR / NON-CONCUR

CONCUR / NON-CONCUR

Please Sign and Date:



10 March 2023

Stephen M. Krause
FFA Project Manager, JBER-E, Alaska
U.S. Air Force

**SANDRA
HALSTEAD**

Digitally signed by SANDRA
HALSTEAD
Date: 2023.03.20 13:38:29
-08'00'

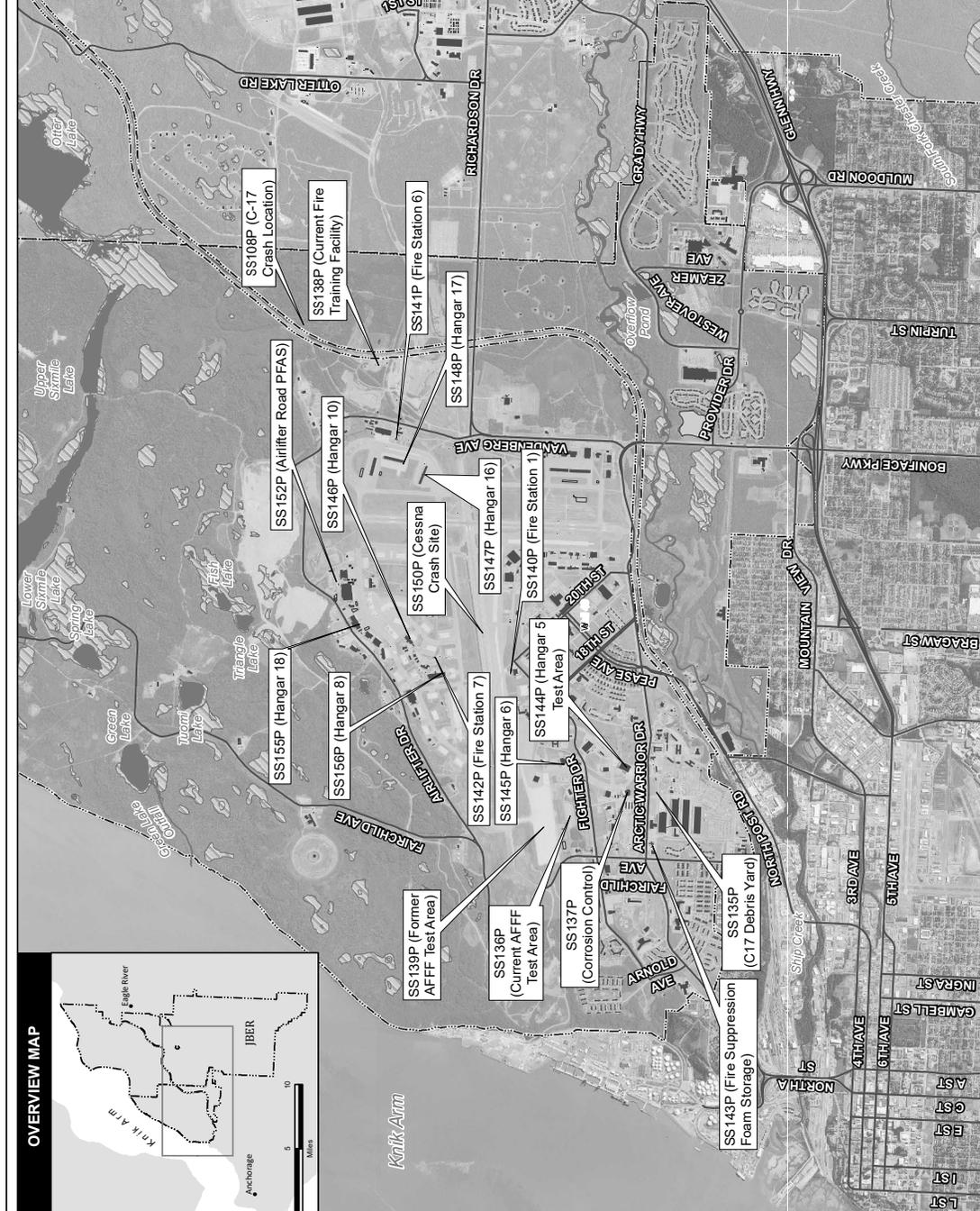
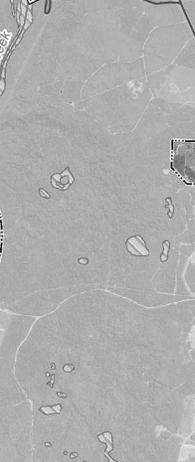
Sandra Halstead
FFA Project Manager, JBER-E, Alaska
U.S. Environmental Protection Agency

William J. Schmaltz

Digitally signed by William J.
Schmaltz
Date: 2023.03.28 07:25:29 -08'00'

William Schmaltz
FFA Project Manager, JBER-E, Alaska
Alaska Dept. of Environmental Conservation
Division of Spill Prevention and Response
Contaminated Sites Program

OVERVIEW MAP



LEGEND

- Road
- Building
- Lake/Pond
- Freshwater Wetlands
- Joint Base Elmendorf-Richardson Boundary
- Former Elmendorf AFB Boundary
- Former Fort Richardson Boundary

ACRONYMS AND ABBREVIATIONS

- JBER-E Joint Base Elmendorf Richardson - Elmendorf
- PFAS Per- and Polyfluoroalkyl Substances

Projected using NAD83 datum
 Spatial Reference of Data Source: WGS 1984 UTM Zone 6 North
 Imagery sourced from JBER 2019.

AIR FORCE CIVIL ENGINEER CENTER

Figure 1 JBER-E PFAS Sites

Date: December 2022

TABLE 1 - SUMMARY OF PFAS SITES TO BE ADDED TO IBER-E FFA

SITE ID	SITE NAME (SI Site #)	SITE LOCATION	POTENTIAL AFFF RELEASE INFORMATION	2016 PFAS SITE INSPECTION SAMPLE SUMMARY (Results compared to May 2022 EPA RSL's)
SS135P	C17 Debris Yard (AFFF #6)	The C17 Debris Yard is located at the SE corner of Gibson Ave and 9 th St.	Debris from C17 Crash (SS159P PFAS site) was placed in a fenced gravel yard at this site. All debris piles were lined and covered, but liners are in disrepair. It is unknown if debris was cleaned prior to transfer to storage yard.	No soil sampling conducted but one existing downgradient well was sampled. PFOA and PFOS detected in the groundwater sample at 0.860 and 6.40 µg/L, respectively, both above the EPA RSL. PFBS was detected below the EPA RSL in the groundwater sample.
SS136P	Current AFFF Test Area (AFFF #7)	The Current AFFF Spray Test Area is located south of the western end of the flightline and south of 23rd Street.	AFFF spray testing for JBER emergency response vehicles has been conducted at this location since 2012. The area consists of a bermed gravel yard that is also used as a snow dump. Spray nozzle testing occurs annually and no more than 10 gallons of AFFF concentrate per vehicle are released. Since there are currently eight vehicles that carry AFFF, there is a maximum of 80 gallons of AFFF released per year. Additional AFFF testing may be performed for maintenance purposes throughout the year at the site.	One soil and two groundwater samples were collected. PFOS was detected in the soil sample above the EPA RSL at a concentration of 0.030 mg/Kg. PFOA and PFBS were both detected below the EPA RSL. Maximum PFOA and PFOS concentrations detected in the groundwater samples were 0.610 and 3.30 µg/L, respectively, both above the EPA RSL. PFBS was detected below the EPA RSL.
SS137P	Corrosion Control (AFFF #8)	The Corrosion Control Hangar (Building 6263) is located south of the main flightline on Gibson Ave.	Building 6263 was built in 1944 and is used for F-15 exterior paint maintenance. The hangar is equipped with an AFFF fire-suppression system that includes a 400-gallon AFFF tank and one oscillating AFFF cannon. Since 2001, there has been annual and biennial testing that discharge of 5 to 10 gallons of AFFF concentrate to observe and adjust spray patterns. Foam discharged during testing is primarily collected in hangar drainage systems, although some may be dispersed onto paved surfaces outside the hangar. There was an accidental 400-gallon discharge in 2001. Prior to 2001, there was no established procedure for performing/documenting system maintenance.	Two soil samples and two groundwater samples were collected. PFOA and PFOS concentrations detected in the soil samples were below the EPA RSLs. PFBS was not detected in the soil samples. Maximum PFOA and PFOS concentrations detected in the groundwater samples were 0.560 and 1.50 µg/L, respectively, both above the EPA RSL. PFBS was detected below the EPA RSL in the groundwater samples.
SS138P	Current Fire Training Facility (AFFF #9)	The current FTA is located approximately 0.3 mile east of north end of the flightline.	The current FTA consists of a 125-foot-diameter lined bermed circular area with a mock aircraft and building and has been used for fire training since the mid-1990s. Fire training occurs approximately 20 times/year. According to Assistant Fire Chief, AFFF has never been used to extinguish fires during training events. However, maintenance of mobile foam units used at Hangar 6 indicates AFFF testing may have occurred at the Current FTA. If so, AFFF testing discharge would release 3.5 gallons of concentrate per event from each of three units annually (total of 10.5 gallons each year).	Three soil and three groundwater samples were collected. The maximum PFOS concentration detected in the soil samples was 0.220 mg/Kg, above the EPA RSL. PFOA and PFBS were both detected below the EPA RSL in one or more soil samples. Maximum PFOA and PFOS concentrations detected in the groundwater samples were 0.440 and 1.40 µg/L, respectively, both above the EPA RSL. PFBS was detected below the EPA RSL in at least one groundwater sample.
SS139P	Former AFFF Test Area (AFFF #12)	The former AFFF spray test area is located on the west ramp of the flightline.	The former AFFF spray test area was used from prior to 2000 until 2010 to test AFFF nozzle spray patterns for emergency response vehicles. The testing area is an unbermed, paved surface surrounded by gravel and grass. Testing occurred annually and occasionally additional testing was performed when maintenance activities required additional spray nozzle adjustments. No more than 10 gallons of AFFF concentrate per each emergency response vehicle were released during annual AFFF testing. During this period, generally eight emergency response vehicles were equipped with AFFF systems; as a result, it is estimated that up to 80 gallons of concentrate were released during annual testing during that time. Historical accounts indicate that foam was observed in the drainage south of the former AFFF spray test area and a release through the stormwater drainage system via the Cherry Hill ditch is suspected.	One soil and one groundwater sample were collected. PFOS was detected in the soil sample above the EPA RSL at a concentration of 0.0150 mg/Kg. PFOA and PFBS were both detected below the EPA RSL. PFOA and PFOS were detected in the groundwater sample at concentrations of 1.70 and 1.80 µg/L, respectively, both above the EPA RSL. PFBS was detected below the EPA RSL in the groundwater sample.
SS140P	Fire Station 1 (AFFF #13)	Fire Station 1 (Building 11415) is located along the west side of 20th Street, north of Fighter Drive.	Fire Station 1 is the main JBER fire station and houses four engines, three of which carry AFFF. The combined total storage of the three engines is 896 gallons of AFFF concentrate. An underground storage tank (UST) is located onsite that is known to have stored AFFF in the past and may still contain AFFF. Vehicle cleaning is conducted inside Fire Station 1 where floor drains are present to capture any runoff and transfer to the wastewater system for treatment. Annual AFFF testing (involving the discharge of 5 to 10 gallons of AFFF concentrate for each emergency vehicle) was performed in the grassy area on the northwestern side of the station from 2010 to 2012. During this time, the annual testing of a maximum of eight emergency vehicles was divided between this location and Hangar 5 (SS144P). Refilling of the emergency vehicles' AFFF tanks occurs at Building 6210 (SS143P).	One soil and one groundwater sample were collected. PFOA and PFOS were detected in the soil sample at concentrations of 0.0250 and 8.90 mg/Kg, respectively, both above the EPA RSL. PFBS was detected below the EPA RSL in the soil sample. PFOA and PFOS were detected in the groundwater sample at concentrations of 0.720 and 2.90 µg/L, respectively, both above the EPA RSL. PFBS was detected below the EPA RSL in the groundwater sample.

TABLE 1 - SUMMARY OF PFAS SITES TO BE ADDED TO JBER-E FFA

SITE ID	SITE NAME (SI Site #)	SITE LOCATION	POTENTIAL AFFF RELEASE INFORMATION	2016 PFAS SITE INSPECTION SAMPLE SUMMARY (Results compared to May 2022 EPA RSL's)
SS141P	Fire Station 6 (AFFF Area #14)	Fire Station 6 (Building 16673) is located along the west side of Talley Avenue off the eastern end of the flightline.	Fire Station 6 serves the flightline and houses one emergency response vehicle that carries approximately 500 gallons of AFFF concentrate. After a response that requires the application of AFFF, vehicle cleaning is conducted inside Fire Station 6, where runoff is captured by drains connected to the wastewater system. Small-scale nozzle testing has been conducted outside of Fire Station 6.	One soil and one groundwater sample were collected. PFOS was detected above the EPA RSL in the soil sample at a concentration of 0.270 mg/Kg. PFOA was detected below the EPA RSL and PFBS was not detected in the soil sample. PFOA and PFOS were detected in the groundwater sample at concentrations of 0.00970 and 0.540 µg/L, respectively, both above the EPA RSL. PFBS was not detected in the groundwater sample.
SS142P	Fire Station 7 (AFFF Area #15)	Fire Station 7 (Building 14431) is located on the north side of the flightline, south of Airlifter Drive.	Fire Station 7 serves the flightline, and houses one emergency response vehicle which carries 210 gallons of AFFF concentrate. After a response that requires the application of AFFF, the worker primarily flushes the nozzle at the scene; however, small-scale AFFF testing also may have been performed at the station, which may have been released to nearby grassy areas. Vehicle cleaning is conducted inside Fire Station 7, where runoff is captured by drains connected to the sanitary sewer system.	One soil and one groundwater sample were collected. PFOA and PFOS were detected in the soil sample below the EPA RSL. PFBS was not detected in the soil sample. PFOA, PFOS, and PFBS were detected in the groundwater sample at concentrations of 5.10, 24.0, and 1.0 µg/L, respectively, all above the EPA RSL.
SS143P	Fire Suppression Foam Storage (AFFF #16)	Fire Suppression Foam Storage AFFF Area (Building 6210) is located on corner of Arctic Warrior Drive and Femoyer Avenue.	Building 6210 is used for storage of firefighting materials. The facility stores and dispenses all AFFF used on JBER. AFFF concentrate is stored in 55-gallon drums on pallets inside the building. Total AFFF stocked onsite must be enough to refill all emergency vehicles, which is currently 990 gallons of concentrate. Emergency vehicle AFFF tanks are refilled at the southeastern corner of Building 6210 using a hand pump to transfer AFFF from drums into vehicle holding tanks. Some small-scale testing of nozzles has also occurred in this area and has resulted in discharges to pavement south of Fire Suppression Foam Storage (Building 6210), and these discharges then pooled in low area of pavement. Tests used approximately 5 to 10 gallons of AFFF concentrate, which were allowed to dry up after pooling on pavement.	One soil and one groundwater sample were collected. PFOA, PFOS, and PFBS were all detected in the soil sample below the EPA RSL. PFOA and PFOS concentrations detected in the groundwater sample were 0.620 and 0.950 µg/L, respectively, both above the EPA RSL. PFBS was detected below the EPA RSL in the groundwater sample.
SS144P	Hangar 5 Test Area (AFFF #18)	Hangar 5 (Building 7309) is located north of Arctic Warrior Drive and west of Kenney Avenue.	The former test area was a paved area located outside of the northeast corner of Building 7309. The test area was used from 2010 to 2012 for annual testing of the AFFF systems on emergency vehicles. AFFF testing was split with Fire Station 1 (Building 11415). Annual testing using 5 to 10 gallons of AFFF concentrate was conducted on the eight emergency vehicles (a maximum total of 80 gallons of concentrate annually) split between the Hangar 5 and Fire Station 1 test areas. Other additional small-scale testing may have been performed as needed.	One soil and one groundwater sample were collected. PFOA was detected in the soil sample above the EPA RSL at a concentration of 0.0240 mg/Kg. PFOA and PFBS were detected in the soil sample below the EPA RSL. PFOA, PFOS, and PFBS were detected in the groundwater sample at concentrations of 1.10, 1.90, and 0.630 µg/L, respectively, all above the EPA RSL.
SS145P	Hangar 6 (AFFF #19)	Hangar 6 (Building 9311) is located south of the main flightline toward the northern end of Jerstadt Avenue.	Hangar 6 was constructed in 1944 and the Alaska National Guard operates the Army's Regional Flight Center within this hangar. Hangar 6 currently has three portable fire suppression systems containing AFFF. These systems were purchased in 2009 but were later determined unnecessary to meet safety requirements and were taken out of service in late 2014. The units never had any accidental activations or use in emergency responses; however, testing of the AFFF spray patterns was performed annually. A total of 3.5 gallons of AFFF concentrate was contained in each of three portable fire suppression units. During testing, the AFFF tanks on each unit were emptied completely, for a total of 10.5 gallons discharged during each annual test. The fire suppression systems (containing AFFF) testing was performed on the pavement to the west of the hangar.	One soil and one groundwater sample were collected. PFOA and PFOS were detected in the soil sample at concentrations below the EPA RSL. PFBS was not detected in the soil sample. PFOA and PFOS were detected in the groundwater sample at concentrations of 0.260 and 0.950 µg/L, respectively, both above the EPA RSL. PFBS was detected below the EPA RSL in both the groundwater sample.
SS146P	Hangar 10 (AFFF #21)	Hangar 10 (Building 15444) is located along Taxiway Kilo on the north side of main flightline.	Hangar 10 was built in 1957 as a heavy aircraft fuel maintenance hangar and is utilized by the 175 th Air National Guard. The Hangar 10 AFFF fire suppression system was installed in 1971 and included a 1,500-gallon AFFF tank, overhead sprinkler network, and three oscillating AFFF cannons located inside along north side of hangar. The system was later converted to a high-expansion foam system. Since 2001, general practices at hangars where AFFF systems are installed include (1) annual testing to determine whether system is responding as designed (without releasing foam) and (2) biennial testing that includes discharge of 5 to 10 gallons of AFFF concentrate to observe and adjust spray patterns. There has been an estimated five to six accidental activations since 2000 with approximately 100 to 200 gallons of AFFF concentrate for each cannon. Some AFFF was collected in floor drains, and some AFFF was allowed to flow outdoor at northeastern corner (facing east) of hangar.	One soil and one groundwater sample were collected. PFOA and PFBS were detected in the soil sample below the EPA RSL. PFOS was not detected in the soil sample. PFOA and PFOS concentrations detected in the groundwater sample were 0.200 and 0.280 µg/L, respectively, both above the EPA RSL. PFBS was detected in the groundwater sample below the EPA RSL.

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SS147P	Hangar 16 (AFFF #22)	Hangar 16 (Building 15658) is located on the north side of the main flightline on Taxiway Foxtrot.	Hangar 16 was constructed in 1945 and is the home of the F-22 Combat Alert Cell. The hangar consists of 8 separate bays. The AFFF system was installed in mid-1990s and consists of two fixed AFFF cannons in each bay which operated independently from each other. Two known activations of the AFFF system have occurred since 2000, each of which completely emptied the 325-gallon AFFF tank. In each discharge, some AFFF was collected in floor drains, but most was pushed out of bay doors onto paved pad and left to evaporate. Since 2001, general practices at hangars where AFFF systems are installed include (1) annual testing to determine whether system is responding as designed (without releasing foam) and (2) biennial testing that includes discharge of 5 to 10 gallons of AFFF concentrate to observe and adjust spray patterns. Foam discharged during testing is primarily collected in hangar drainage systems	One soil and one groundwater sample were collected. PFOS was detected in the soil sample below the EPA RSL. PFOA and PFBS were not detected in the soil sample. PFOA and PFOS concentrations detected in the groundwater sample were 0.0330 and 0.230 µg/L, respectively, both above the EPA RSL. PFBS was detected in the groundwater sample below the EPA RSL.
SS148P	Hangar 17 (AFFF #23)	Hangar 17 (Building 16670) is located on the east side of the main flightline on Taxiway Foxtrot.	Hangar 17 was constructed in 1996 and houses the 907 th Aircraft Maintenance Unit for F-22s. The AFFF system includes a 300-gallon tank and fixed-head sprinkler system. Three or four accidental system activations have occurred since 2000, each of which discharged approximately 5 gallons of AFFF concentrate. Since 2001, general practices at the hangars where AFFF systems are installed include (1) annual testing to determine whether the system is responding as designed (without releasing foam) and (2) biennial testing that includes the discharge of 5 to 10 gallons of AFFF concentrate to observe and adjust spray patterns.	One soil and one groundwater sample were collected. PFOA and PFOS was detected in the soil sample below the EPA RSL. PFBS was not detected in the soil sample. PFOA and PFOS concentrations detected in the groundwater sample were 0.0150 and 0.270 µg/L, respectively, both above the EPA RSL. PFBS was detected in the groundwater sample below the EPA RSL.
SS150P	Cessna Crash Site (AFFF #26)	The Cessna Crash site is along the south side of Airlifter Drive, near the center of the east-west runway.	On October 6, 2009, a Cessna UC-35A crashed in the central portion of the east-west runway. The IBER Fire Department responded to the plane crash on the runway, and sprayed AFFF in the crash area as a precautionary measure. The AFFF was then allowed to dissipate in place. The quantity of AFFF used during the response is unknown. Because the AFFF was allowed to dissipate in place, it is likely that AFFF reached the grass and gravel areas adjacent to the runway.	One soil and one groundwater sample were collected. PFOS was detected in the soil sample below the EPA RSL. PFOA and PFBS were not detected in the soil sample. PFOA and PFOS concentrations detected in the groundwater sample were 0.110 and 0.370 µg/L, respectively, both above the EPA RSL. PFBS was detected in the groundwater sample below the EPA RSL.
SS152P	Airlifter Road PFAS (AFFF #17)	The Airlifter Road PFAS site is located north of 33rd Street and east of Airlifter Drive.	The site was used as an FTA from approximately 1940 until 1983. It currently consists of paved parking lots and roads surrounded by buildings to the south. The site historically consisted of a bermed fire training pit area, which was an approximate 50-foot-diameter circular area. Each training exercise included burning an estimated 250 to 3,000 gallons of oils, fuels, and solvents. According to the Assistant Fire Chief, AFFF was never used to extinguish the fires during training events. The site is an existing CERCLA site (FT023) for legacy contaminants.	One groundwater sample was collected. PFOA was detected above the EPA RSL in the groundwater sample at a concentration of 0.030 µg/L. PFOA and PFBS were not detected in the groundwater sample.
SS155P	Hangar 18 (AFFF #24)	Hangar 18 (Building 17470) is located on the north side of main flightline on Taxiway Joker.	Hangar 18 was built in 1999 and is a large aircraft maintenance hangar used by the 176 th Air National Guard. The AFFF fire suppression system includes two 750-gallon AFFF tanks and four oscillating AFFF cannons within the hangar. Several accidental activations of the AFFF fire suppression system occurred around 2005, including at least one instance when all four cannons activated simultaneously, and other incidents when one or two cannons were activated. The estimated volume for each of these discharges was 1,000 gallons of AFFF concentrate. AFFF was collected in floor drains and was allowed to flow outdoor at the south side of the west bay of hangar.	One soil and one groundwater sample were collected. PFOS was detected in the soil sample above the EPA RSL at a concentration of 0.0330 mg/Kg. PFOA was detected in the soil sample below the EPA RSL. PFBS was not detected in the soil sample. PFOA and PFOS concentrations detected in the groundwater sample were 0.230 and 8.10 µg/L, respectively, both above the EPA RSL. PFBS was detected in the groundwater sample below the EPA RSL.
SS156P	Hangar 8 (AFFF #2)	Hangar 8 (Building 14410) is located on the northern side of main flightline on Taxiway Bravo.	Hangar 8 is a large aircraft maintenance hangar that was built in 1957 and is used for the maintenance of E-3/AWACS. The AFFF fire suppression system was installed in 1987 and includes a 1,500-gallon tank, overhead sprinkler network, and three foam cannons. Prior to 2001, there was no established procedure/schedule for performing or documenting system maintenance. Since 2001, general practices at hangars where AFFF systems are installed include (1) annual testing to determine whether system is responding as designed (without releasing foam) and (2) biennial testing that includes discharge of 5 to 10 gallons of AFFF concentrate to observe and adjust spray patterns. Foam discharged during testing is primarily collected in hangar drainage systems, although some may be dispersed onto paved surfaces outside hangar. Three accidental activations occurred between 2000 and 2004 (each approximately 100 to 200 gallons of AFFF concentrate).	One soil and one groundwater sample were collected. PFOA and PFBS were not detected below the EPA RSL in the soil sample. PFOA and PFOS concentrations detected in the groundwater sample were 0.0380 and 0.170 µg/L, respectively, both above the EPA RSL. PFBS was detected in the groundwater sample below the EPA RSL.

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SS159P	C-17 Crash Location (AFFF #25)	The C-17 Crash Location is 2,000 feet northeast of the east-west runway.	<p>This site is the location of a C-17 aircraft crash site that occurred in July 2010. The crash location is undeveloped except for ARRC tracks crossing site. The crash released approximately 4,000 gallons of jet fuel, but most of the fuel was consumed in a resulting fire. Fire responders dispensed AFFF to isolate fuel vapors. After the fire was put out, AFFF was allowed to dissipate in place. Approximately 220 gallons of AFFF concentrate were used for emergency response; it is unknown which type of AFFF was applied. In October 2012, a removal action was conducted to remove fuel-contaminated soils from crash site to return the site to unrestricted use. A total of 1,544 cubic yards of fuel-contaminated soil was removed from the site and disposed of offsite in accordance with state regulations. Because AFFF distribution would likely be associated with the fuel-contaminated areas, much of the residual AFFF may have been removed along with fuel-contaminated soil during the 2012 removal action.</p>	<p>One soil and one groundwater sample were collected. PFOS was detected in the soil sample below the EPA RSL. PFOA and PFBS were not detected in the soil sample. PFOA was detected in the ground sample above the EPA RSL at a concentration of 0.00890 µg/L. PFBS was detected in the groundwater sample below the EPA RSL. PFOS was not detected in the groundwater sample.</p>