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I hereby certify that the within is a true and correct copy of the original CERCLA agreement filed in this matter.

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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION III

COMMONWEALTH OF VIRGINIA

AND THE

DEFENSE LOGISTICS AGENCY

DEFENSE GENERAL SUPPLY CENTER

IN THE MATTER OF:	)	
	)	
Defense Logistics Agency	)	FEDERAL FACILITY AGREEMENT
Defense General Supply Center	)	Under CERCLA Section 120
Richmond, Virginia	)	
and Impacted Environs	)	Administrative
	)	Docket Number: FCA-CERC-006

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

I. JURISDICTION

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

A. The U.S. Environmental Protection Agency (EPA) enters into those portions of this Agreement that relate to the Remedial Investigations/Feasibility Studies (RIs/FSs) pursuant to Section 120(e)(1) of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) as amended by the Superfund Amendments and Reauthorization Act of 1986 (SARA), Pub. L. 99-499 (hereinafter jointly referred to as CERCLA), 42 U.S.C. Section 9620(e)(1), and Sections 6001, 3008(h) and 3004(u) and (v) of the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. Sections 6961, 6928(h), 6924(u) and (v), as amended by the Hazardous and Solid Waste Amendments of 1984 (HSWA), (hereinafter jointly referred to as RCRA), and Executive Order 12580;

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

C. The Defense Logistics Agency (DLA) enters into those portions of this Agreement that relate to the RI/FS pursuant to CERCLA Section 120(e)(1), 42 U.S.C. Section 9620(e)(1), RCRA

Sections 6001, 3008(h) and 3004(u) and (v), 42 U.S.C. Sections 6961, 6928(h), and 6924(u) and (v), Executive Order 12580, the National Environmental Policy Act, 42 U.S.C. Section 4321, and the Defense Environmental Restoration Program (DERP), 10 U.S.C. Section 2701 et seq.;

D. DLA enters into those portions of this Agreement that relate to remedial actions pursuant to CERCLA Section 120(e)(2), 42 U.S.C. Section 9620(e)(2), RCRA Sections 6001, 3004(u) and 3008(h), 42 U.S.C. Sections 6961, 6928(h) and 6924(u), Executive Order 12580 and the DERP; and

E. The Commonwealth of Virginia (Commonwealth or State) enters into this Agreement pursuant to CERCLA Sections 120(f) and 121(f), 42 U.S.C. Sections 9620(f) and 9621(f), and the Virginia Waste Management Act, Virginia Code Section 10.1-1400 et seq.

II. DEFINITIONS

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

A. "Accelerated Operable Unit" or "AOU" shall mean a Remedial Action which prevents, controls, or responds to a release or threatened release of hazardous substances, pollutants, and contaminants where prompt action is necessary but a response under removal authorities is not appropriate or desirable. The purpose of an AOU is to allow the Parties to proceed with a remedial action for that Operable Unit prior to completion of the Record of Decision (ROD) for the total remedial action. AOUs are particularly appropriate where the size and complexity of the total remedial action would seriously delay implementation of independent parts of the action. AOUs will only proceed after complying with applicable procedures in the NCP, and the Parties shall make every effort to expedite these procedures. It is not intended that AOUs diminish the requirements for or to delay the conduct of a total remedial action.

B. "Agreement" shall mean this document and shall include all attachments to this document. All such attachments are integral and enforceable parts of this Agreement.

C. "ARARs" shall mean "legally applicable" or "relevant and appropriate" requirements, standards, criteria or limitations, as those terms are used in Section 121 of CERCLA, 42 U.S.C. Section 9621, and as defined in the NCP.

D. "CERCLA" shall mean the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. Section 9601 et seq., as amended by the Superfund Amendments and

Reauthorization Act of 1986, (SARA) Public Law No. 99-499, and any amendments thereto.

E. "Community Relations" shall mean the program to inform and involve the public in the Superfund process and to respond to community concerns.

F. "Corrective Action Permit" shall mean the corrective action portion of the RCRA Permit, VA3 97 152 0751, and any modifications, issued to the Defense General Supply Center by EPA on August 12, 1986.

G. "Days" shall mean calendar days, unless business days are specified. Any submittal that under the terms of this Agreement would be due on a Saturday, Sunday, or Federal or Commonwealth of Virginia holiday shall be due on the following business day.

H. "Deadline" shall mean a time limitation specifically established or provided for under the terms of this Agreement and shall not include target dates, which are established for Secondary Documents. Deadlines shall be subject to stipulated penalties.

I. "DGSC" shall mean the Defense General Supply Center, Richmond, Va., which is operated by the Defense Logistics Agency, its successors and assigns. Included within this definition are DGSC tenant activities located on the Facility. This definition is not intended to limit the liability of any tenant not a field activity of the Defense Logistics Agency which is a potentially responsible party for the purposes of CERCLA Section 107(a).

J. "DLA" shall mean the Defense Logistics Agency of the United States of America, its successors and assigns, including the United States Department of Defense (DoD) to the extent necessary to effectuate the terms of the Agreement, including, but not limited to, appropriations and Congressional reporting requirements.

K. "EPA" shall mean the United States Environmental Protection Agency, its successors and assigns.

L. "Expanded Site Investigation" or "ESI" shall mean an investigation to provide more general data and information on Site characteristics, contaminant sources, or migration pathways.

M. "Expanded Site Investigation Areas" (ESI Areas) shall mean those geographical areas listed in Attachment A, and any additional areas agreed to by the Parties in the future. When the Parties agree, ESI Areas may expand or contract in size as information becomes available indicating the extent of contamination and the geographical area needed to be studied.

N. "Facility" shall mean that property owned by the U. S. Department of the Army, including that portion known as DGSC,

located in Chesterfield County, Virginia, and including all areas identified in Attachment B. This definition is for the purpose of describing a geographical area and not a governmental entity.

O. "Focused Feasibility Study" or "FFS" shall mean a comparison of alternatives which concentrates on a particular contaminated media or a discrete portion of the Site which does not need added investigation in order to progress forward in the remedial process.

P. "Guidance" shall mean any requirements or policy directives published by EPA or which may be published by the Commonwealth which are of general application to environmental matters and which are otherwise applicable to DGSC's work under this Agreement.

Q. "National Contingency Plan" or "NCP" shall mean the regulations contained in the National Oil and Hazardous Substances Pollution Contingency Plan, 40 C.F.R. Part 300, and any amendment thereto.

R. "Onsite" shall have the meaning as defined in the NCP.

S. "Operable Unit" or "OU" shall mean a discrete action that comprises an incremental step toward comprehensively addressing Site problems. This discrete portion of a remedial response manages migration, or eliminates or mitigates a release, threat of release, or pathway of exposure related to the Site. Operable units may address geographical portions of a Site, specific Site problems, or initial phases of an action, or may consist of any set of actions performed over time or any actions that are concurrent but located in different parts of the Site. The cleanup of a Site can be divided into a number of operable units, depending on the complexity of the problems associated with the Site. The term "operable unit" is not intended to refer to the term "operating unit" as used in RCRA.

T. "Parties" shall mean DLA, DGSC, EPA, and the Virginia Department of Waste Management (VDWM).

U. "RCRA" shall mean the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901 et seq., as amended by the Hazardous and Solid Waste Amendments of 1984, (HSWA), Public Law No. 98-616, and any amendments thereto.

V. "Schedule" shall mean timetable or plan that indicates the time and sequence of events.

W. "Site" shall include the Facility and any other areas where a hazardous substance, hazardous waste, hazardous constituent, pollutant, or contaminant from the Facility has been deposited, stored, disposed of, or placed, or has migrated or otherwise come to be located. This definition is not intended to include

hazardous substances or wastes intentionally transported from the Facility by motor vehicle.

X. "Solid Waste Management Unit" or "SWMU", as defined pursuant to RCRA, 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 and/or hazardous waste. Such units include any area at a facility at which solid wastes have been routinely and systematically released.

Y. "Target Dates" shall mean proposed time limitations specifically established or provided for under the terms of this Agreement for Secondary Documents. Target Dates shall not be subject to stipulated penalties.

Z. "To Be Considered" or "TBC" is any advisory, criteria, or guidance developed by EPA, other federal agency, or state that may be useful in developing CERCLA remedies.

AA. "Transmit" shall mean the following: any document or notice to be transmitted by a certain date will be considered as transmitted on time if: (1) it is provided to the carrier on a next day mail basis no later than the day before it is due to be delivered according to the requirements of this Agreement; (2) it is hand-delivered by the due date; or (3) it is sent by certified mail return receipt requested no later than two days before it is due to be delivered according to the requirements of this Agreement. Any other means of transmission must arrive on the due date to be considered as timely delivered.

BB. "VDWM" shall mean the Virginia Department of Waste Management, its successors and assigns.

III. PARTIES BOUND

3.1 This Agreement shall apply to and be binding upon EPA, the Commonwealth of Virginia, which has designated VDWM as the lead Commonwealth agency responsible for Federal programs carried out under this Agreement, DLA, and DGSC, as operated by DLA, and upon all subsequent owners, operators and lessees of the Facility. This Section shall not be construed as an agreement to indemnify any person.

3.2 DGSC shall notify EPA and VDWM of the identity and assigned tasks of each of its contractors performing work under this Agreement upon their selection. DGSC shall provide copies of this Agreement to all contractors performing any work called for by this Agreement and condition performance of all such contracts on compliance with this Agreement. Each Party shall be responsible for ensuring that its contractors comply with the terms and conditions of this Agreement.

IV. PURPOSE

4.1 The general purposes of this Agreement are to:

A. Ensure that the environmental impacts associated with past and present activities at the Site are thoroughly investigated and the appropriate response action taken as necessary to protect the public health, welfare and the environment;

B. Establish a procedural framework and schedule for developing, implementing, and monitoring appropriate response actions at the Site in accordance with CERCLA, the NCP, Superfund guidance and policy, RCRA, RCRA guidance and policy, and applicable federal and Commonwealth law;

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

D. Ensure DGSC's compliance with RCRA corrective action requirements.

4.2 Specifically, the purposes of this Agreement are to:

A. Identify operable unit response actions which are appropriate at the Site. Response actions shall be identified and proposed to the Parties as early as possible prior to formal proposal pursuant to CERCLA, applicable Commonwealth law and this Agreement;

B. Establish requirements for the performance of RIs to determine fully the nature and extent of the threat to the public health or welfare or the environment caused by the release or threatened release of hazardous substances, pollutants or contaminants at or from the Site and to establish requirements for the performance of FSs for the Site to identify, evaluate, and select alternatives for the appropriate remedial action(s) to prevent, mitigate, or abate the release or threatened release of hazardous substances, pollutants or contaminants at or from the Site in accordance with CERCLA, the NCP and applicable Commonwealth law;

C. Identify the nature, objective and schedule of response actions to be taken at the Site. Response actions at the Site shall attain that degree of cleanup of hazardous substances, pollutants or contaminants mandated by CERCLA, the NCP and applicable Commonwealth law;

D. Implement the selected response action(s) at the Site in accordance with CERCLA, the NCP and applicable Commonwealth law and meet the requirements of Section 120(e)(2) of CERCLA, 42 U.S.C. Section 9620(e)(2), for an interagency agreement among the Parties;

E. Assure compliance, through this Agreement, with RCRA and other federal and state hazardous waste laws and regulations for matters covered herein;

F. Coordinate response actions at the Site with the mission and support activities at the Defense General Supply Center (DGSC);

G. Expedite the cleanup process to the extent consistent with protection of public health or welfare or the environment;

H. Provide for VDWM involvement in the initiation, development, selection and enforcement of response actions to be undertaken at the Site, including the review of all applicable data as it becomes available and the development of studies, reports and action plans; and to identify and integrate ARARs into the response action process in accordance with CERCLA Section 121, 42 U.S.C. Section 9621; and

I. Provide for operation and maintenance of any response action(s) selected and implemented pursuant to this Agreement.

V. FINDINGS OF FACTS

5.1 For purposes of this Agreement, the following constitutes a summary of the facts relied upon by the Parties to establish their jurisdiction and authority to enter into this Agreement. None of the facts related herein shall be considered admissions to any person related or unrelated to this Agreement for purposes other than determining the basis of the Agreement or establishing the jurisdiction and authority of the Parties to enter into this Agreement.

A. The Site is located in the northeast portion of Chesterfield County, Virginia, nine miles south of Richmond, Virginia, on U.S. Route 1. Constructed in 1941-42, the installation was two separate facilities, known as the Richmond General Depot and the Richmond Holding and Reconsignment Point. The name of the installation, as well as its mission, has changed throughout the years. The U.S. Department of the Army is the current owner of the Site.

B. The U.S. Department of the Army operated the Site until 1962. In 1962, the Defense Logistics Agency became the operator of a portion of the Site, which portion was renamed the Defense General Supply Center. Including easements, DGSC encompasses approximately 640 acres. The mission of DGSC has primarily been to receive, store and issue general supplies used by the military services.

C. DLA began an Installation Assessment (IA) of previously used waste disposal areas at the Facility in 1979 pursuant to the DLA Installation Restoration Program (IRP). The findings from

the IA were summarized in a report issued in August 1981. Most hazardous wastes and hazardous substances generated at the Facility resulted from industrial operation, maintenance and repair, and chemical storage.

D. In 1981, the United States Army Toxic and Hazardous Materials Agency (USATHAMA) performed record searches and personnel interviews regarding past waste management practices at the Site. These record searches and interviews indicated that past practices were not compatible with waste management practices in use at the time of the inquiry, including regulations under RCRA. The study identified 25 areas where hazardous materials might have been used, stored, treated or disposed of at the Site. USATHAMA recommended that a limited survey be performed on three of the areas: (1) Central Open Storage Areas; (2) Area 50; and (3) Firefighting Training/Waste Disposal Pit.

E. In 1982, the U.S. Army Environmental Hygiene Agency (USAEHA) installed seven (7) groundwater monitoring wells adjacent to Former Area 50 Landfill and four (4) monitoring wells in the area of the Fire Training Pits. Analysis of the groundwater indicated the presence of volatile organic compounds in the various wells. The materials detected included tetrachloroethylene and trichloroethene.

F. In October 1984, EPA completed pursuant to CERCLA a Hazard Ranking System evaluation of DGSC that resulted in a score of 33.85.

G. Based on the Hazard Ranking System evaluation, and in accordance with EPA policy, in October 1984 EPA proposed DGSC for inclusion on the National Priorities List (NPL). DGSC was promulgated to the NPL in August, 1987.

H. Through the U. S. Army Corps of Engineers, during February/March 1984, DLA commissioned Dames & Moore, a contractor, to conduct a Contamination Assessment. The Assessment, completed in two (2) phases, identified four areas on the Facility and one area off the Facility where hazardous substances, pollutants and contaminants may have been disposed. These following areas are shown on the map, Attachment B:

(1) AREA 50;
(2) NATIONAL GUARD AREA;
(3) OPEN STORAGE AREA;
(4) FIRE TRAINING AREA, and
(5) OLD SANITARY LANDFILL.

I. Based on the results of remedial investigations, the following is a brief description of the areas where hazardous substances are located:

1. Area 50 - Metals were found in the soil, including barium, calcium and copper. Certain VOCs were concentrated in three hot spots, and TCE and PCE were found in both the soil and groundwater. Some semi-volatile compounds, mostly associated with petroleum compounds, were also found in the three hot spots.

2. National Guard Area - Petroleum hydrocarbons were found in the soil.

3. Open Storage Area - Metals were found in the soil, including arsenic, iron and cadmium. Some semi-volatile compounds, most of which are associated with petroleum products, were found in the upper two to three feet of soil.

4. Fire Training Pit - VOCs were found, including TCE and PCE. Pesticides and herbicides were also found in the soil.

5. Old Sanitary Landfill - No hazardous substances located. This area is under the jurisdiction of the Corps of Engineers.

6. Acid Neutralization Pit - New area to be addressed as result of RIs - Metals were found in the soil, including iron and copper. Calcium was found in both the soil and groundwater. Some volatile organic compounds (VOCs) were found in the soil and groundwater, including tetrachloroethene (PCE) and trichloroethene (TCE). Some base neutral and acid extractable compounds (BNAs) were also found in the soil and groundwater.

J. On 12 August 1986, EPA Region III issued a RCRA Corrective Action Permit Number VA 3971520751 to DGSC. The permit required that:

1. DGSC submit a solid waste management unit (SWMU) identification report to document that DGSC has fully investigated the entire Facility for the purpose of verifying the absence or existence of all SWMUs. Final approval of the report was received from EPA on April 7, 1987.

2. DGSC submit a solid waste management unit investigation report for the SWMUs listed below and any additional units identified in the SWMU identification report:

a. Open Storage Areas 38 through 47
b. Building 75 and Surrounding Storage Area
c. Open Shed 2, Section F ("Bay E")
d. Transitory Shelter 202

Final approval of the report was received from EPA on April 14, 1989.

3. Study Areas referred to in Subsections J. 3. and 4. are the Study Areas as defined in the RCRA Corrective Action Permit. DGSC conduct Remedial Investigations (RIs) and, if

necessary, Feasibility Studies (FSs) for Study Area "A" (Former Landfill Area 50 and Open Storage Areas 38 through 47) and Study Area "B" (Former Fire Training Pits #1 and #2). Draft RIs were submitted in mid 1987. Based on EPA review, additional work was conducted. The final RI for the Fire Training Pits was submitted to EPA and VDWM for review and concurrence on June 8, 1989, and the final RI for Area 50 was submitted to EPA for review and concurrence on July 28, 1989 and to VDWM on August 3, 1989.

4. DGSC conduct a Site investigation with sampling for the Acid Neutralization Unit (Study Area "C"). The Site investigation report was submitted to EPA in 1987 and based on the results of the investigation, a RI is being performed. The draft RI was submitted to EPA and VDWM in May 1989 for review and comment.

5.2 Completed Reports

In light of the foregoing and included as specific findings of fact herein, the Parties agree that DGSC has completed the following reports, for the purposes and at the times identified with each report:

A. Installation Assessment of Defense General Supply Center, IRP, August 1981

B. Geohydrologic Study No. 38-26-0614-82, IRP, September 2, 1982

C. Geohydrologic Study No. 38-26-0164-83, IRP, April 27, 1983

D. Geohydrologic Study No. 38-36-0164-84, IRP, February 13, 1984

E. Phase I-Contamination Assessment, IRP, July 23, 1984

F. Phase II-Contamination Assessment, IRP, November 15, 1985

G. Draft Letter Report-Acid Neutralization Pit, Corrective Action Permit, April 23, 1987

H. Draft Remedial Investigation-Former Fire Training Pits, Corrective Action Permit, May 26, 1987

I. Draft Remedial Investigation-Area 50, Open Storage Area, National Guard Area, Corrective Action Permit, July 29, 1987

J. Draft Remedial Investigation-Acid Neutralization Pit, Corrective Action Permit, April 27, 1989

K. Final Remedial Investigation-Former Fire Training Pits, Corrective Action Permit, May 31, 1989

L. Final Remedial Investigation-Area 50/Open Storage Area/ National Guard Area, Corrective Action Permit, July 28, 1989

VI. DETERMINATIONS

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

A. The DLA and DGSC are "persons" as defined in Section 101(21) of CERCLA, 42 U.S.C. Section 9601(21).

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

C. There has been a release or a substantial threat of a release of hazardous substances, pollutants, contaminants, hazardous wastes or constituents at or from the Facility.

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

E. The actions provided for in this Agreement are necessary to protect the public health, or welfare or the environment.

F. The U. S. Department of the Army is the owner of the Facility and DLA and DGSC are the operators of the Facility within the meaning of CERCLA Section 101(20), 42 U.S.C. Section 9601(20), and operate the Site within the meaning of Section 107(a)(1) of CERCLA, 42 U.S.C. Section 9607(a)(1). Pursuant to "Management Guidance for Execution of the FY 1990/91 Defense Environmental Restoration Program (DERP)", September 29, 1989, Attachment C, and "Defense Environmental Restoration Program Authorities", November 13, 1989, Attachment D, the authority to manage the DERP program, which provides for the cleanup of DoD hazardous waste Sites, was delegated to DLA. As the operator of the Facility, pursuant to Department of the Army Permit to Defense Logistics Agency for use of an Entire Installation, November 18, 1986, Attachment E, and any subsequent permits, DLA is the lead agency of the United States to manage the DERP as it applies to the Facility.

G. DGSC is a "Facility" as defined by 10 U.S.C. Section 2701 et seq., and is subject to the Defense Environmental Restoration Program.

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

VII. STATUTORY COMPLIANCE/RCRA-CERCLA INTEGRATION

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

7.2 Based upon the foregoing, the Parties intend that any remedial action selected, implemented and completed under this Agreement will be protective of human health and the environment such that remediation of releases performed in accordance with this Agreement shall obviate the need for further corrective action under RCRA for those releases. The Parties agree that with respect to releases of hazardous waste and constituents, hazardous substances, pollutants or contaminants covered by this Agreement, RCRA shall be considered an applicable or relevant and appropriate requirement, ARAR, pursuant to Section 121 of CERCLA, 42 U.S.C. Section 9621. Releases or other hazardous waste activities not addressed by this Agreement remain subject to all applicable state and federal environmental requirements.

7.3 The Parties recognize that the requirement to obtain permits for response actions undertaken pursuant to this Agreement shall be as provided for in CERCLA and the NCP. The Parties further recognize that on-going hazardous waste management activities at the Facility are subject to existing permits and/or requirements and may require the issuance of additional permits under Federal and Commonwealth laws. This Agreement does not affect the requirements, if any, to obtain such permits. However, if a permit is issued to DGSC for ongoing hazardous waste management activities at the Facility, EPA or VDWM shall reference and incorporate any appropriate provisions, including appropriate schedules, and the provision for appropriate extension of such schedules, of this Agreement into such permit. With respect to those portions of this Agreement incorporated by reference into permits, the Parties intend that judicial review of the

incorporated portions shall, to the extent review is authorized by law, only occur under the provisions of CERCLA.

7.4 EPA shall propose amendments to the DGSC Corrective Action Permit No. VA 3971520751 to conform that Permit to the requirements of this Agreement.

VIII. SCOPE

8.1 This Agreement is intended to cover the investigation, development, selection, and implementation of response actions for all releases or threatened releases of hazardous substances, contaminants, hazardous wastes, hazardous constituents, or pollutants at or from the Site. This Agreement covers all phases of remediation for these releases, bringing together into one agreement the requirements for remediation as well as the system the Parties will use to determine and accomplish remediation, ensuring the necessary and proper level of participation by each Party. Although all such releases at the Site are not currently known, the Agreement establishes the system for dealing with those undiscovered releases. To accomplish remediation of those undiscovered releases, the Parties will establish schedules, deadlines and target dates as necessary and as information becomes available and, if required, amend this Agreement as needed. For purposes of this Agreement, it is intended that all Study Areas listed in the Corrective Action Permit will be addressed by this Agreement.

8.2 This Agreement is intended to address and satisfy DLA's and DGSC's RCRA corrective action obligations which relate to the release(s) of hazardous substances, hazardous wastes, hazardous constituents, pollutants, or contaminants at or from all areas addressed as SWMUs and Study Areas under the Corrective Action Permit. This Agreement is not intended to limit any requirements under RCRA or any other law or regulation to obtain permits, and is not intended to affect the treatment, storage, or disposal by DGSC of hazardous waste. This Agreement is not intended to encompass response to spills of hazardous substances from ongoing operations unless those spills occur in conjunction with CERCLA removal actions or remedial actions pursuant to this Agreement.

8.3 Corrective Action Permit, Permit #VA 3971520751, was issued to DGSC on August 12, 1986 by EPA. Pursuant to permit requirements, DGSC is presently conducting an investigation at three operable units: Acid Neutralization Pits Area, Fire Training Area, and the Open Storage Area/Area 50/National Guard Area. This investigation will result in the completion of RIs/FSs for these three areas. DGSC agrees that it shall continue to conduct the RIs/FSs at these areas in accordance with this Agreement. DGSC also agrees that these investigations will be consistent with the NCP and applicable guidance issued by EPA. DGSC agrees that it shall follow the remedial process outlined in this Agreement.

8.4 DGSC agrees that it shall develop, implement and report upon an Expanded Site Investigation (ESI), as defined herein, at the areas listed in Attachment A to this Agreement. The ESIs shall be conducted in accordance with an ESI Work Plan as agreed to by the Parties. The ESIs shall be subject to the review and comment procedures described in Section 10, Consultation. The ESIs shall be conducted in accordance with the requirements and time schedules set forth in Section 9.3, Work To Be Performed. The ESIs shall meet the purposes set forth in Section 4, Purpose.

IX. WORK TO BE PERFORMED

9.1 A. The Parties recognize that a significant amount of background information exists, and must be reviewed prior to developing the Statements of Work (SOWs) and Work Plans required by this Agreement. DGSC need not halt currently ongoing work but may be obligated to modify or supplement work previously done to produce a final product which meets the requirements of this Agreement. It is the intent of the Parties to this Agreement that work done and data generated prior to the effective date of this Agreement be retained and utilized as elements of the RI/FS to the maximum extent feasible without violating ARARs or guidelines and without risking significant technical errors.

B. Any Party may propose that a portion of the Site be designated as a distinct Operable Unit. This proposal must be in writing to the other Parties, and must stipulate the reasons for such a proposal. Dispute Resolution may be invoked if the Parties are not in agreement on the proposal of a specific Operable Unit. If Dispute Resolution is not invoked within thirty (30) days of the receipt of such a proposal by the Parties or if the need for an Operable Unit is established through Dispute Resolution, the portion of the Site proposed shall be an Operable Unit as that term is defined in Section 2, Definitions, of this Agreement and used throughout this Agreement.

C. The Parties agree to use their best efforts to expedite the initiation of response actions at the Site, including operable units, and to carry out all activities under this Agreement so as to protect the public health, welfare and the environment. Upon request, the Parties agree to provide applicable guidance or reasonable assistance in obtaining such guidance relevant to the implementation of this Agreement.

D. When awarding contracts for work required under this Agreement, the Norfolk District Corps of Engineers, acting as contracting agency for DGSC, shall provide VDWM an opportunity to participate as a consultant under the auspices of DGSC in determining the qualifications of the bidders as part of the requirement to make responsibility determinations. VDWM shall provide information concerning the prospective firms' capabilities to fulfill the terms of the contract. The Norfolk District shall review and consider such information prior to

final selection. VDWM shall not contact the prospective firms nor disclose their identities prior to actual contract award. VDWM shall treat any information in the prospective firms' proposals which is marked "confidential" or "financial" or "business" information in accordance with Section 33, Confidential Information.

E. The Norfolk District shall provide VDWM an opportunity to participate as a consultant under the auspices of DGSC in the preparation of the detailed Scope of Work and technical conditions to be submitted to the selectee(s). Upon completion of a draft Scope, the Norfolk District shall submit the draft to VDWM for review and comment and VDWM shall provide comments within fourteen (14) days of the submission. The Norfolk District shall review and consider the comments and recommendations provided by VDWM when developing the final Scope of Work.

Work Plan Development for Existing Operable Units

9.2 In accordance with Section 11, Deadlines, DGSC will submit Work Plans (WPs) for the completion of an RI/FS for each of the following units: (1) the Acid Neutralization Pits Operable Unit, (2) the Fire Training Area Operable Unit, and (3) the Open Storage Area/Area 50/National Guard Area Operable Unit. Each Work Plan shall address comments received from EPA and VDWM. The Work Plans shall provide for the performance of RI/FSs which meet the requirements of all relevant laws and requirements including RI/FS guidance documents issued by EPA and shall contain enough specificity for EPA and VDWM to determine that the subject RI/FSs will be adequately performed. The WPs shall contain a schedule for the completion of the RI/FSs. The WPs shall be Primary Documents as described in Section 10, Consultation, of this Agreement.

Expanded Site Investigation Areas

9.3 There are currently six (6) Expanded Site Investigation (ESI) Areas that were identified at the Facility which are listed in Attachment A to this Agreement. Within thirty (30) days after the effective date of this Agreement, DGSC shall submit to EPA and VDWM proposed deadlines for the submission of Work Plan(s) for the ESI Areas. Each Work Plan shall contain proposed deadlines for completion of the ESI. The deadlines shall be approved in accordance with the procedures provided at Section 11.1, Deadlines. DGSC will conduct ESIs to determine if there have been releases of hazardous substances, pollutants, contaminants, hazardous wastes or constituents to the environment from the ESI Areas. The scope of the ESIs shall be determined by the Parties.

A. DGSC shall conduct the ESIs in accordance with current CERCLA guidance for conducting Expanded Site Investigations.

B. Based on the review of the ESIs, the Parties shall, within forty-five (45) days following receipt of the studies, determine which (if any) of the ESIs will require an RI/FS. If the Parties cannot agree on the determination, dispute resolution may be invoked in accordance with Section 20, Dispute Resolution. If an RI/FS is required, within sixty (60) days after notification by EPA of the requirement, DGSC shall submit to EPA and VDWM a Statement of Work (SOW) which will contain a schedule of proposed deadlines for the submission of Work Plan(s) which will contain a schedule for completion of the RI/FS.

C. The Parties may agree, after review of initial documents, that a SOW is not required and proceed with the development of an RI/FS Work Plan in accordance with Subsection 9.4. Each SOW shall describe an RI/FS which meets the requirements of all relevant laws and requirements and RI/FS guidance issued by EPA and contains enough specificity for EPA and VDWM to determine that all major elements of an RI/FS are provided for. Each SOW shall be a Primary Document as described in Section 10, Consultation, of this Agreement.

Work Plans

9.4 DGSC shall develop and submit to EPA and VDWM a Work Plan (WP) for the completion of an RI/FS for each operable unit as determined by the Parties. DGSC shall submit the Work Plan in accordance with the schedule established in the SOW provided for in Subsection 9.3 B. or DGSC shall submit proposed deadlines for the submission of a Work Plan within sixty (60) days after the determination that a SOW is not required as provided for in Subsection 9.3 C. The Work Plans shall be completed as described above in Subsection 9.2.

Remedial Investigation and Feasibility Study

9.5 For each Operable Unit at the Site, DGSC shall develop, implement and report upon an RI which is in accordance with the requirements and time schedules set forth in the approved Work Plan. Each RI Report shall be a Primary Document as described in Section 10, Consultation, of this Agreement.

A. DGSC agrees to conduct a Baseline Risk Assessment. Final Site clean-up level criteria will only be determined following completion of the Baseline Risk Assessment.

B. For each Operable Unit at the Site, DGSC shall design, propose, undertake and report upon an FS which is in accordance with the requirements and time schedules set forth in the approved WP. Each FS report shall be a Primary Document as described in Section 10, Consultation.

Remedial Action Selection

9.6 Following finalization of the RI and the FS for each Operable Unit, and in accordance with the deadline as approved in the Work Plan, DGSC shall, after consultation with EPA and VDWM, publish its Proposed Plan for forty-five (45) days of public review and comment. In accordance with CERCLA Section 120(f), 42 U.S.C. Section 9620(f), DGSC shall include in its proposed plan a response to VDWM's comments on the proposed plan and shall provide a copy of such response to VDWM. DGSC shall submit its draft ROD to EPA and VDWM within thirty (30) days following the close of the public comment period on the Proposed Plan. Pursuant to CERCLA Section 120(e)(4)(A), 42 U.S.C. Section 9620(e)(4)(A), the EPA Administrator and the Director of DLA, in consultation with VDWM, shall make the final selection of the remedial action(s) for each Operable Unit. If the Administrator and the Director are unable to reach agreement, the Administrator, after consultation with the Deputy Assistant Secretary of Defense (Environment), shall select the remedy. If the proposed remedial action does not attain a legally applicable or relevant and appropriate standard, requirement, criteria or limitation, VDWM shall be provided with an opportunity at least thirty (30) days prior to the publication of DGSC's final remedial action plan to concur or not concur in accordance with CERCLA Section 121(f)(3)(A), 42 U.S.C. Section 9621(f)(3)(A). If VDWM concurs or does not act within thirty (30) days of notification by DGSC of publication of the final remedial action plan, the remedial action may proceed. If VDWM does not concur, it may act pursuant to Section 121(f)(3)(B) of CERCLA, 42 U.S.C. Section 9621(f)(3)(B). The selection of remedial action(s) shall be final and not subject to dispute by DLA or VDWM. In accordance with Section 11, Deadlines, DGSC shall propose a schedule for the Remedial Design and Remedial Action. A dispute arising under this Section, on any matter other than EPA's final selection of a remedial action, shall be resolved pursuant to Section 20, Dispute Resolution.

Design of Remedial Actions

9.7 DGSC shall submit a RA Work Plan for each operable unit as a Primary Document to EPA and VDWM, in accordance with Section 10, Consultation. DGSC shall develop the conceptual design document, a thirty (30), sixty (60) and ninety (90) percent design report and the final design document for the remedial action in accordance with this Agreement and applicable guidance issued by EPA. The Remedial Design shall contain a schedule for the completion of the Remedial Action.

A. DGSC shall submit a draft of the conceptual design document and the thirty (30), sixty (60) and ninety (90) percent design reports as Secondary Documents, as listed in Section 10, Consultation, to the Parties for review and comment.

B. Following receipt of EPA's and VDWM's comments on the ninety (90) percent design document, DGSC shall prepare a final design document. The final design document shall be a Primary Document as described in Section 10, Consultation.

C. Thirty (30) days after the final design document is approved, pursuant to Section 10, Consultation, DGSC shall begin performance of the Remedial Action in accordance with the final Remedial Design. The Remedial Action shall be completed in accordance with the approved Final Remedial Design.

Finalization of Remedial Actions

9.8 Within sixty (60) days after completion of the Remedial Action for each operable unit, DGSC shall submit to EPA and VDWM the Remedial Action Report. The Remedial Action Report shall summarize the Remedial Action and shall detail, and provide an explanation for, any activities that were not conducted in accordance with the final Remedial Design. The Remedial Action Report shall also contain the Operation and Maintenance Plan for that particular Remedial Action.

Accelerated Operable Unit

9.9 Accelerated Operable Units (AOUs), as defined in Section 2, Definitions, will follow a streamlined remedial process as set forth below. Any Party may propose in writing that an Operable Unit (OU) be conducted as an AOU. The Party proposing an AOU shall be responsible for drafting an AOU proposal which shall clearly define the purpose, scope and goals of the AOU. DGSC shall evaluate all proposed AOUs. If dispute resolution is not invoked within thirty (30) days following receipt of proposal of an AOU by the Parties, or if the need for an AOU is established through Section 20, Dispute Resolution, DGSC shall submit a SOW which will contain a schedule of proposed deadlines for completion of the draft Focused Feasibility Study (FFS), draft Proposed Plan, and draft Accelerated Operable Unit ROD. DGSC shall submit the SOW within thirty (30) days following agreement of the Parties, or if dispute resolution is invoked, within thirty (30) days after resolution of the dispute, or thirty (30) days after the effective date of this Agreement, whichever is later. The Parties shall consider and approve or modify the proposed schedule in accordance with Section 11.1, Deadlines. Once approved or modified by agreement of the Parties or through dispute resolution, the schedule shall become a requirement of this Agreement.

A. Following finalization of the FFS and the Proposed Plan as provided in Section 10, Consultation, the Proposed Plan shall be published for public review and comment. Accelerated operable units shall follow the procedures described in Subsections 9.6 through 9.8. DGSC shall perform the Remedial Action in accordance with the approved Remedial Design.

EPA Certification

9.10 When DGSC determines that any final or supplemental remedial action, or AOU, has been completed in accordance with the requirements of this Agreement, it shall so advise EPA and VDWM in writing, and shall request certification by EPA, in consultation with VDWM, that the remedial action has been completed in accordance with the requirements of this Agreement. Within ninety (90) days of EPA's receipt of a request for Certification, EPA, in consultation with VDWM, shall advise DGSC and VDWM in writing that:

(a) EPA certifies that the remedial action has been completed in accordance with CERCLA, the NCP and this Agreement; or

(b) EPA denies DGSC's request for certification, stating in full the basis of its denial.

9.11 If EPA denies DGSC's request for certification that a remedial action has been completed in accordance with this Agreement, DGSC may invoke dispute resolution to review EPA's determination. If a denial of certification is upheld in dispute resolution, EPA shall provide to DGSC and VDWM a written description of the additional work needed to bring the remedial action into compliance with the requirements of this Agreement. Within thirty (30) days after DLA's receipt of the written description of the additional work required, DGSC shall submit to EPA and VDWM proposed deadlines for submitting a Work Plan which will contain a schedule for completion of the additional work. After performing the additional work, DGSC may resubmit a request for certification to EPA. EPA, in consultation with VDWM, shall then grant or deny certification pursuant to the process set forth in this Subsection.

X. CONSULTATION

Review and Comment Process for Draft and Final Comments

10.1 Applicability:

The provisions of this Section establish the procedures that shall be used by the Parties to provide each other with appropriate notice, review, comment and response to comments regarding RI/FS and RD/RA documents. In accordance with CERCLA Section 120, 42 U.S.C. Section 9620, and 10 U.S.C. Section 2705, DGSC will normally be responsible for issuing Primary and Secondary Documents to EPA and VDWM. As of the effective date of this Agreement, all draft and final reports for any deliverable document identified herein shall be prepared, distributed and subject to dispute in accordance with subsections 10.2 through 10.10 below. The designation of a document as "draft" or "final" is solely for purposes of consultation with EPA and VDWM in

accordance with this Section. Such designation does not affect the obligation of the Parties to issue documents, which may be referred to herein as "final", to the public for review and comment as appropriate and as required by statutes or regulations pursuant thereto.

10.2 General Process for Document Review:

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

B. Secondary Documents include those reports that are discrete portions of the Primary Documents and are typically input or feeder documents. Secondary Documents are issued by DGSC in draft subject to review and comment by EPA and VDWM. Although DGSC will respond to comments received, the draft Secondary Documents may be finalized in the context of the corresponding draft final Primary Documents. A Secondary Document may be disputed at the time the corresponding draft final Primary Document is issued.

10.3 Primary Documents:

A. All Primary Documents shall be prepared in accordance with the NCP and applicable guidance issued by EPA. DGSC shall complete and transmit draft reports for the following Primary Documents to EPA and VDWM for review and comment in accordance with the provisions of this Section:

(1) ESI Work Plans for Areas listed in Attachment A

(2) ESI Reports for Areas listed in Attachment A

(3) Statements of Work

(4) RI/FS Work Plans

(5) RI Reports, including Baseline Risk Assessment

(6) FS Reports, including Focused Feasibility Studies

(7) Proposed Plans RODs?

(8) RD/RA Work Plans

(9) Remedial Designs

(10) Community Relations Plan

(11) Supplemental Work Plans

B. Only draft final reports for the Primary Documents identified above shall be subject to dispute resolution. DGSC shall complete and transmit draft Primary Documents in accordance with the schedules and deadlines established in this Agreement, in Work Plans, or in Section 11, Deadlines, of this Agreement.

10.4 Secondary Documents:

A. All Secondary Documents shall be prepared in accordance with the NCP and applicable guidance issued by EPA. DGSC shall complete and transmit draft reports for the following Secondary Documents to EPA and VDWM for review and comment in accordance with the provisions of this Section.

(1) Sampling and Data Results

(2) Treatability Studies Reports

(3) Well Closure Methods and procedures

(4) Detailed Analysis of Alternatives when not included in a Feasibility Study

(5) Conceptual Design Document

(6) 30 Percent Design Report

(7) 60 Percent Design Report

(8) 90 Percent Design Report

(9) Operation and Maintenance Plans

(10) Remedial Action Reports

(11) Periodic Review Assessment Reports

B. Although EPA and VDWM may comment on the draft reports for the Secondary Documents listed above, such documents shall not be subject to dispute resolution except as provided in subsection 10.2 above. Target dates for the completion and transmission of draft secondary reports shall be established pursuant to Section 11, Deadlines, and by the mutual agreement of the Project Managers. The Project Managers may agree upon additional Secondary Documents.

10.5 Meetings of the Project Managers:

The Project Managers shall confer at least every thirty (30) days and shall meet in person approximately every ninety (90) days,

except as otherwise agreed by the Parties, to review and discuss the progress of work being performed at the Site, including progress on Primary and Secondary Documents. Prior to preparing any draft report specified in subsections 10.3 and 10.4 above, the Project Managers shall confer on the report results in an effort to reach a common understanding, to the maximum extent practicable, with respect to the results to be presented in the draft report.

10.6 Identification and Determination of Potential ARARs:

A. For those primary reports or Secondary Documents that consist of or include ARAR determinations, prior to the issuance of a draft report, the Project Managers shall confer or meet as early as possible to identify and propose, to the best of their ability, all potential ARARs pertinent to the report being addressed, including any permitting requirements that may be a source of ARARs. VDWM shall identify all potential state ARARs and "to be considereds" (TBCs) as early in the remedial process as possible consistent with the requirements of CERCLA Section 121(d)(2)(A)(ii), 42 U.S.C. Section 9621(d)(2)(A)(ii) and the NCP. DGSC shall consider any written interpretations of ARARs provided by VDWM. Draft ARAR determinations shall be prepared by DGSC in accordance with CERCLA Section 121(d)(2), 42 U.S.C. Section 9621(d)(2), the NCP and pertinent guidance issued by EPA that is consistent with CERCLA and the NCP.

B. In identifying potential ARARs, the Parties recognize that actual ARARs can be identified only on a site-specific basis and that ARARs depend on the specific hazardous substances, pollutants or contaminants at the Site, the particular actions proposed as a remedy or associated with the characteristics of the Site. The Parties recognize that ARAR identification is necessarily an iterative process and that potential ARARs must be re-examined throughout the RI/FS process until a ROD is signed. Requirements that are promulgated or modified after ROD signature must be attained or waived only when they are determined to be applicable or relevant and appropriate and necessary to ensure that the remedy is protective of human health and the environment. Components of the remedy not described in the ROD must attain or waive requirements that are identified as applicable or relevant and appropriate at the time the amendment to the ROD or the explanation of significant difference describing the component is signed.

10.7 Review and Comment on Draft Reports:

A. DGSC shall complete and transmit each draft primary report to EPA and to VDWM on or before the corresponding deadline established pursuant to Section 11, Deadlines. DGSC shall complete and transmit the draft Secondary Documents in accordance with the target dates established for the issuance of such documents pursuant to Section 11, Deadlines, or as established by the Project Managers in writing.

B. Unless the Parties mutually agree to another time period, all draft reports shall be subject to a sixty (60) day period for review and comment. Review of any document by EPA and VDWM may concern all aspects of the report, including completeness, and should include, but is not limited to, technical evaluation of any aspect of the document, and consistency with CERCLA, the NCP, applicable Virginia statutes and regulations and pertinent policy or guidance issued by EPA or VDWM.

C. After the transmission of the draft report, at the request of EPA's or VDWM's Project Manager, and to expedite the review process, DGSC shall make an oral presentation of the report to the Parties, as agreed by the Parties. Comments by EPA and VDWM shall be provided with adequate specificity so that DGSC can respond to the comment and, if appropriate, make changes to the draft report. Comments shall refer to any pertinent sources of authority or references upon which the comments are based and, upon DGSC'S request, EPA or VDWM shall provide a copy of the cited authority or reference. In cases involving complex or unusually lengthy reports, EPA or VDWM may extend the sixty (60) day comment period for an additional twenty (20) days by written notice to DGSC prior to the expiration of the sixty (60) day period. On or before the close of the comment period, EPA and VDWM shall transmit their written comments to DGSC. In appropriate circumstances, this time period may be further extended in accordance with Section 12, Extensions, of this Agreement.

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

E. In commenting on a draft report which contains a proposed ARAR determination, EPA and/or VDWM shall include a reasoned statement of whether it objects to any portion of the proposed ARAR determination. To the extent that EPA or VDWM does object, the objecting party shall explain the basis for its objection in detail and shall identify any ARARs which it believes were not properly addressed in the proposed ARAR determination.

F. Following the close of the comment period for a draft report, DGSC shall give full consideration to all written comments on the draft report submitted during the comment period. Within sixty (60) days of the close of the comment period on a draft secondary report, DGSC shall transmit to EPA and VDWM its written response to the comments received within the comment period.

Within sixty (60) days of the close of the comment period on a draft primary report, DGSC shall transmit to EPA and VDWM a draft final primary report, which shall include DGSC's response to all written comments received within the comment period. While the resulting draft final report shall be the responsibility of DGSC, it shall be the product of consensus to the maximum extent possible.

G. DGSC may extend the sixty (60) day period for either responding to comments on a draft report or for issuing the draft final primary report for an additional twenty (20) days by providing a written notice to EPA and VDWM prior to the expiration of the sixty (60) day period. In appropriate circumstances, this time period may be further extended in accordance with Section 12, Extensions, of this Agreement.

10.8 Dispute Resolution on Draft Final Primary Documents:

A. Dispute resolution shall be available to the Parties for draft final primary reports as set forth in Section 20, Dispute Resolution.

B. When dispute resolution is invoked on a draft final primary report, work may be stopped in accordance with the procedures contained in Section 20, Dispute Resolution.

10.9 Finalization of Reports:

The draft final primary report shall serve as the final primary report if no Party invokes dispute resolution regarding the document or, if invoked, at completion of the dispute resolution process should DGSC's position be sustained. If DGSC's determination is not sustained in the dispute resolution process, DGSC shall prepare, within not more than thirty-five (35) days, a revision of the draft final report which conforms to the results of dispute resolution. This time period may be extended where appropriate in accordance with Section 12, Extensions.

10.10 Subsequent Modification of Final Report:

Following finalization of any primary report pursuant to Subsection 10.9 above, any Party may seek to modify the report including seeking additional field work, pilot studies, computer modeling or other supporting technical work, only as provided in subsections (A) and (B) below.

A. Any Party to this Agreement may seek to modify any report after finalization if it determines, based on new information (i.e., information that became available, or conditions that became known, after the report was finalized) that the requested modification is necessary. Any Party may seek such a modification by submitting a written request to the Project Managers. The request shall specify the nature of the

requested modification and how the request is based on new information.

B. In the event that a consensus is not reached by the Project Managers on the need for a modification, any Party may invoke dispute resolution to determine if such modification should be allowed. Modification of a report shall be required only upon a showing that:

(1) The requested modification is based on significant, new information; and,

(2) The requested modification could be of significant assistance in evaluating impacts on the public health or the environment, in evaluating the selection of remedial alternatives, or in protecting human health and the environment.

C. Nothing in this section shall alter EPA's or VDWM's ability to request the performance of additional work which was not contemplated by this Agreement. DGSC's obligation to perform such work must be established by either a modification of a report or a document or by amendment to this Agreement.

XI. DEADLINES

11.1. Within sixty (60) days after the effective date of this Agreement, DGSC shall submit to EPA and VDWM proposed deadlines for the submission of Work Plan(s). In the Work Plan for each operable unit, DGSC shall propose deadlines for completion of the following draft Primary Documents:

A. RI Reports
B. Community Relations Plans
C. FS Reports
D. Proposed Plans

Within fifteen (15) days of receipt of such proposed deadlines, EPA and VDWM shall review and provide comments to DGSC regarding the proposed deadlines. Within fifteen (15) days following receipt of the EPA and VDWM comments, DGSC shall, as appropriate, make revisions and reissue the proposal. The Parties shall confer or meet as necessary to discuss and finalize the proposed deadlines. If the Parties agree on proposed deadlines, the finalized deadlines shall be incorporated into the appropriate Work Plans. If the Parties fail to agree on the proposed deadlines within thirty (30) days of DGSC's reissuance of the proposed deadlines, the matter shall immediately be submitted for dispute resolution pursuant to Section 20, Dispute Resolution.

The final deadlines established pursuant to this Section shall be published by EPA in conjunction with VDWM in accordance with Section 120(e)(1) of CERCLA, 42 U.S.C. Section 9620(e)(1), and shall become an Attachment to this Agreement.

11.2. Within twenty-one (21) days of signature of each Record of Decision for each operable unit, DGSC shall propose deadlines for completion of the following draft Primary Documents:

A. Remedial Design
B. Remedial Action Work Plan

These deadlines shall be proposed, finalized and published utilizing the same procedures set forth in Subsection 11.1 above.

11.3 Within twenty-one (21) days of signature of the Record of Decision for each operable unit, DGSC shall propose target dates for submission of the following draft Secondary Documents:

A. Conceptual Design Document
B. 30 Percent Design Report
C. 60 Percent Design Report
D. 90 Percent Design Report

Within fifteen (15) days of receipt of such proposed target dates, EPA and VDWM shall review and provide comments to DGSC regarding the proposed target dates. Within fifteen (15) days following receipt of the EPA and VDWM comments, DGSC shall, as appropriate, make revisions and reissue the proposal. The Parties shall confer or meet as necessary to discuss and finalize the proposed target dates. All agreed-upon target dates shall be incorporated into the appropriate Work Plans.

11.4. The deadlines set forth in this Section, or to be established as set forth in this Section, may be extended pursuant to Section 12, Extensions. The Parties recognize that one possible basis for extension of the deadlines for completion of the RI/FS Reports is the identification of significant new conditions at the Site during the performance of the remedial investigation.

XII. EXTENSIONS

12.1 Either a deadline or a schedule shall be extended in accordance with Subsection 12.5 upon receipt of a timely request for extension by any Party and when good cause exists for the requested extension in accordance with Subsections 12.3 through 12.6. Any request for extension by any Party shall be submitted to the other Parties in writing and shall specify:

A. The deadline or the schedule that is sought to be extended;

B. The length of the extension sought;

C. The good cause(s) for the extension;

D. Any related deadline or schedule, and the extent to which it would be affected, if the extension were granted; and

E. All efforts undertaken to comply with the deadline or schedule.

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

A. An event of force majeure, as defined in Section 22, Force Majeure;

B. A delay caused by another Party's failure to meet any requirement of this Agreement;

C. A delay caused by the good faith invocation of dispute resolution or the initiation of judicial action;

D. A delay caused, or which is likely to be caused, by the grant of an extension in regard to another deadline or schedule;

E. A delay caused by public comment periods or hearings required under Commonwealth law in connection with the Commonwealth's performance of this Agreement as it relates to the specific deadline or schedule affected by such public comment period or hearing;

F. A work stoppage ordered by the EPA Hazardous Waste Management Division Director under Section 17.1, Emergencies and Removals, as it relates to the specific deadline or schedule affected by the work stoppage;

G. An emergency response action or removal action, as defined by Section 17, Emergencies and Removals, as it relates to the specific deadline or schedule affected by the emergency response action or removal action; and

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

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

12.4 Within seven (7) days of receipt of a request for an extension of a deadline or a schedule, the other Parties shall each advise the requesting Party in writing of its respective position on the request. Any failure by the other Parties to respond within the seven (7) day period shall be deemed to constitute concurrence in the request for extension. If a Party does not concur in the requested extension, it shall include in its statement of nonconcurrence an explanation of the basis for its position.

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

12.6 Within seven (7) days of receipt of a statement of nonconcurrence with the requested extension, the requesting Party may invoke dispute resolution.

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

XIII. PROJECT MANAGERS

13.1 On or before the effective date of this Agreement, EPA, DGSC, and VDWM shall each designate a Project Manager and an Alternate Project Manager. The Project Managers shall be responsible on a daily basis for assuring proper implementation of all work performed under the terms of the Agreement. In addition to the procedures set forth in Section 14, Notice to the Parties, to the maximum extent practicable, communications among DGSC, EPA, and VDWM on all documents, including reports, comments and other correspondence concerning the activities performed pursuant to this Agreement, shall be directed through the Project Managers. The Alternate Project Manager shall be authorized to exercise the authority of the Project Manager in his or her absence.

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

13.3 The Project Managers shall confer informally as provided for in Section 10.5, Consultation. The Project Manager for DGSC

shall be responsible for day-to-day field activities at the Site. The absence of EPA and/or VDWM or DGSC Project Managers from the Site shall not be cause for the delay or stoppage of work. Whenever possible, the Project Managers shall resolve informally, by consent, any issue related to the implementation of this Agreement. Although DGSC has ultimate responsibility for meeting its respective deadlines or schedules, the Project Managers shall assist in this effort, including scheduling meetings to address documents, reviewing reports, overseeing the performance of environmental monitoring at the Site, and reviewing RI/FS or RD/RA progress. The Project Managers may, by mutual agreement, in writing, extend a deadline or schedule related to work to be performed in accordance with Section 12, Extensions.

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

13.5 The authority of the Project Managers shall include, but is not limited to:

A. Taking samples and ensuring that sampling and other field work is performed in accordance with the terms of this Agreement and any approved Work Plan or Statement of Work;

B. Observing, taking photographs and making such other reports on the progress of the work as the Project Managers deem appropriate, subject to the limitations set forth in Section 15, Access, hereof;

C. Reviewing records, files and documents relevant to the work performed; and

D. Recommending and requesting minor field modifications to the work to be performed pursuant to an approved Work Plan, or in techniques, procedures, or designs utilized in carrying out such Work Plan.

13.6 Any minor field modification proposed by a Party pursuant to this Section must be approved orally by all Parties' Project Managers to be effective. The DGSC Project Manager will make a contemporaneous record of such modification and approval in a written log, and a copy of the log entry will be provided as part of the next progress report. No Project Manager will require

implementation of an approved modification by a government contractor without approval of the appropriate Government Contracting Officer.

13.7 If any event occurs or has occurred that may delay or prevent the performance of any obligation under this Agreement, whether or not caused by a force majeure event, any Party shall notify by telephone the other Parties' Project Managers within two (2) working days of when the Party first became aware that the event might cause a delay. If the Party intends to seek an extension of a deadline or schedule because of the event, the procedures of Section 12, Extensions, shall apply.

XIV. NOTICE TO THE PARTIES

14.1. Unless otherwise specified in writing, documents and notices shall be transmitted to the following addresses:

A. For DGSC: Defense General Supply Center
DGSC-WI
Attn: Bill Saddington
Richmond, VA. 23297-5000

B. For EPA: EPA Region III (3HW26)
Attn: DGSC Project Manager
841 Chestnut Building
Philadelphia, PA 19107

C. For VDWM: Virginia Department of Waste Management
Attn:
18th Floor Monroe Building
101 N. 14th Street
Richmond, VA 23219

14.2 Unless otherwise indicated in this Agreement, notification of change of addresses specified in this Section shall be provided to the other Parties at least fifteen (15) days prior to the effective date of such change.

XV. ACCESS

15.1. Without limitation on any authority conferred on EPA or VDWM by statute or regulation, EPA, VDWM, and/or their authorized representatives, shall have the authority to enter the Site at all reasonable times for purposes consistent with the provisions of this Agreement, and will make efforts to provide notice as is reasonable under the circumstances to the DGSC Project Manager. The authority shall include, but not be limited to:

A. Inspecting records, operating logs, or contracts related to the investigative and response work at the Facility;

B. Reviewing the progress of DGSC in implementing this Agreement;

C. Conducting such tests as the Project Managers deem necessary;

D. Verifying the data submitted to EPA and VDWM; and

E. Collecting information, inspecting, and/or obtaining samples.

Upon request for access, EPA and VDWM shall present proper credentials. However, the rights to such access by EPA and VDWM granted in Subsection 15.1 shall be subject to those statutes and regulations as may be necessary to protect national security, including DLA security regulations, DLAR 5705.1 and DLAM 5710.1. DGSC agrees to notify EPA and VDWM of any restricted area that would relate to the work to be performed pursuant to this Agreement.

15.2 Upon denying any aspect of access, DGSC shall provide a written explanation within 48 hours of the reason for the denial and provide a recommendation for accommodating the requested access in an alternate manner.

15.3 DGSC shall provide an escort whenever EPA or VDWM requires access to restricted areas of DGSC for purposes consistent with the provisions of this Agreement. EPA and VDWM shall provide two (2) business days notice to the DGSC Project Manager to request any necessary escorts for such restricted areas. Before using any camera, sound or other electronic recording device on DGSC, EPA and VDWM shall notify their escort.

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

15.5. To the extent that activities pursuant to this Agreement must be carried out off of the Facility, DGSC shall use its best efforts to obtain access agreements from the landowners. These agreements shall provide reasonable access for DLA, EPA and VDWM and their representatives. In the event that DGSC is unable to obtain such access agreements within thirty (30) days of discovering the need for access, DGSC shall promptly notify EPA and VDWM. DGSC shall request the assistance of EPA and VDWM where access problems arise. If requested, EPA and VDWM will take reasonable steps, if practicable, to assist DGSC in gaining Site access. Where access problems persist, EPA or VDWM may seek access pursuant to CERCLA Section 104 where practicable.

15.6. In the event that access agreements cannot be obtained as described in Subsection 15.4 above, DGSC shall submit appropriate modification(s) to the work to be performed because of such inability to obtain access. In the event that the Parties cannot

agree upon such modification(s), Section 20, Dispute Resolution, may be invoked.

15.7. All Parties with access to the Site pursuant to this Section shall comply with all federally required Health and Safety plans.

XVI. PERMITS

16.1. The Parties recognize that under Section 121(e)(1) of CERCLA, 42 U.S.C. Section 9621(e)(1), and the NCP, portions of the response actions selected and carried out pursuant to this Agreement entirely onsite are exempted from the procedural requirement to obtain a Federal, state, or local permit. However, DGSC must satisfy all the applicable or relevant and appropriate Federal and state standards, requirements, criteria, or limitations which would have been included in any such permit.

16.2. When DGSC proposes a response action, other than an emergency removal action, to be conducted entirely onsite, which in the absence of Section 121(e)(1) of CERCLA and the NCP would require a Federal, state or local permit, DGSC shall include in its submittal to the other Parties:

A. Identification of each permit which would otherwise be required;

B. Identification of the standards, requirements, criteria, or limitations which would have had to have been met to obtain each such permit; and

C. An explanation of how the response action proposed will meet the standards, requirements, criteria or limitations identified in Subsection (B) immediately above.

Upon request of DGSC, EPA and VDWM will provide their written position with respect to (B) and (C) above in a timely manner.

16.3. Subsections 16.1 and 16.2 above are not intended to relieve DGSC from the requirement(s) of obtaining a permit or other authorization whenever it proposes a response action involving the shipment or movement off the Site of a hazardous substance.

16.4. DGSC shall notify EPA and VDWM in writing of any permits or other authorizations required for its activities as soon as it becomes aware of the requirement. Upon request, DGSC shall provide EPA and VDWM copies of all such permit applications and other documents related to the permit or authorization process.

16.5. If a permit or other authorization which is necessary for implementation of this Agreement is not issued, or is issued or renewed in a manner which is materially inconsistent with the requirements of this Agreement, DGSC agrees to notify EPA and

VDWM of its intention to propose modifications to this Agreement to obtain conformance with the permit, or lack thereof. Notification by DGSC of its intention to propose modifications shall be submitted within seven (7) calendar days of receipt by DGSC of notification that: (1) a permit will not be issued; (2) a permit has been issued or reissued; or (3) a final determination with respect to any appeal related to the issuance of a permit has been entered. Within thirty (30) days from the date it submits its notice of intention to propose modifications to this Agreement, DGSC shall submit to EPA and VDWM its proposed modifications to this Agreement with an explanation of its reasons in support thereof.

16.6 EPA and VDWM shall review DGSC's proposed modifications to this Agreement in accordance with Section 38, Amendment of Agreement, of this Agreement. If DGSC submits proposed modifications prior to a final determination of any appeal taken on a permit needed to implement this Agreement, EPA and VDWM may elect to delay review of the proposed modifications until after such final determination is entered.

16.7 During any appeal of any permit required to implement this Agreement or during review of any of DGSC's proposed modifications as provided in Subsection 16.6 above, DGSC shall continue to implement those portions of this Agreement which can reasonably be implemented pending final resolution of the permit issue(s).

16.8 Nothing in this Agreement shall be construed to affect DGSC's obligation to comply with its RCRA permit for the Facility.

XVII. EMERGENCIES AND REMOVALS

17.1. Discovery and Notification. If any Party discovers or becomes aware of any release or threat of release of a hazardous substance or an emergency or activity at the Site that may create an imminent and substantial endangerment to the public health or welfare or the environment at the Site, which is related to or may affect the work performed under this Agreement, that Party shall immediately orally notify all other Parties. The DGSC Project Manager, or his representative, shall immediately take steps necessary to ascertain if such a threat exists and take any necessary steps to eliminate the threat. If the emergency arises from activities conducted pursuant to this Agreement, DGSC shall then take immediate action to notify the appropriate Commonwealth and local agencies and affected members of the public. This Section shall not affect Section H.13, the reporting requirement in DGSC's Permit No. VA 3971520751, which requires the oral reporting within 24 hours of any noncompliance with the Permit which may endanger the public health or welfare or the environment. Work that is related to such a threat will immediately be discontinued if the Hazardous Waste Management

Division Director of EPA Region III requests, in writing, that such work be stopped because, in EPA's opinion, such work is likely to yield an adverse effect on human health or the environment, or is likely to have a substantial adverse effect on the remedy selection or implementation process. To the extent practicable, any Party seeking a work stoppage shall consult with the other Parties prior to initiating a work stoppage request. After the Hazardous Waste Management Division Director of EPA Region III makes a determination on stoppage of work, if a Party believes that the determination is inappropriate, or may have potential significant adverse impacts, the Party may meet with the other Parties to discuss the determination. Following this conference, and further consideration of the issues, the EPA Hazardous Waste Management Division Director will issue, in writing, a final decision with respect to the work stoppage. The final written decision of the EPA Division Director may immediately be subject to formal dispute resolution. Such dispute may be brought directly to either the DRC or the SEC, at the discretion of the Party requesting dispute resolution.

17.2 Removal Actions

A. The provisions of this Section shall apply to all removal actions, as defined in CERCLA Section 101(23), 42 U.S.C. Section 9601(23), conducted at the Site.

B. Any removal action conducted at the Site shall be conducted in a manner consistent with this Agreement, CERCLA, the NCP, 10 U.S.C. Section 2705, and Executive Order 12580, including provisions for timely notice and consultation with EPA and appropriate State and local officials.

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

D. Nothing in this Agreement shall alter any authority the Commonwealth or EPA may have with respect to removal actions conducted at the Site. Notwithstanding any other provision of this Agreement, DLA and EPA retain their respective rights, consistent with E.O. 12580, to conduct such emergency actions as may be necessary to alleviate immediate threats to human health or the environment from the release or threat of release of hazardous substances, pollutants or contaminants at or from the Site. Such actions may be conducted at any time, either before or after the signature of a ROD.

E. All reviews conducted by EPA and VDWM pursuant to 10 U.S.C. Section 2705(b) will be expedited to the maximum extent practicable.

F. Any dispute among the Parties as to whether a removal action, as defined by 42 U.S.C. Section 9601(23) and the NCP, is properly considered a removal action, or as to the consistency of

such a removal action with any remedial action, shall be subject to Section 20, Dispute Resolution.

G. All activities related to ongoing removal actions shall be reported by DGSC in progress reports as described in Section 13, Project Managers.

17.3 Notice and Opportunity to Comment

A. Emergencies:

1. DGSC shall provide EPA and VDWM oral notice on emergency response actions in accordance with Subsection 17.1 as soon as possible after determining that an emergency action is necessary.

2. Within seven (7) days of the determination of the need for an emergency response action, DGSC shall provide the following information: adequate information concerning Site background, threat to the public health or welfare or the environment (including the need for response), proposed actions and costs, comparison of possible alternatives, means of transportation off-site, proposed manner of disposal, expected change in situations should no action be taken or should action be delayed (including associated environmental impacts), any important policy issues and recommendations of the DGSC Project Manager. In cases of extreme emergency, the above information shall be provided as soon as possible thereafter. Promptly thereafter, DGSC shall provide the other Parties with the written bases (factual, technical, and scientific) for the response action and any available documents supporting such action. Within sixty (60) days of completion of an emergency response action, DGSC will furnish EPA and VDWM with an Action Memorandum addressing the information provided in the oral notification, whether and to what extent the action varied from the description previously provided, and any other information required by CERCLA or the NCP, and in accordance with EPA guidance for such actions.

B. Removal Actions:

1. DGSC shall provide EPA and VDWM with timely notice on any proposed removal action on the Facility, in accordance with 10 U.S.C. Section 2705(a) and (b). EPA shall provide DGSC and VDWM with timely notice on any proposed removal action off the Facility and within the Site. VDWM shall provide EPA and DGSC with timely notice on any proposed removal action on the Site.

2. For removal actions, the Party undertaking the removal will provide the other Parties with any information required by CERCLA, the NCP, and in accordance with pertinent EPA guidance, such as the Action Memorandum, the Engineering Evaluation/Cost Analysis (in the case of non-time-critical

removals) and, to the extent it is not otherwise included, all information required to be provided in accordance with Subsection 17.3 A.2. Such information shall be furnished at least thirty (30) days before the response action is to begin.

XVIII. PERIODIC REVIEW

18.1 DGSC shall conduct a periodic review of any remedial action that results in hazardous substances, pollutants or contaminants remaining at the Site. The purpose shall be to determine whether and to what extent any additional remedial action is necessary to assure that human health and the environment are being protected by the remedial actions being implemented. The periodic review shall be conducted in accordance with CERCLA Section 121(c), 42 U.S.C. Section 9621(c), any applicable law, and regulation or guidance issued by EPA, and this Agreement. Upon completion, DGSC shall provide the Periodic Review Assessment Report to EPA and VDWM. This report shall be a Secondary Document as described in Section 10, Consultation.

18.2 The periodic review shall be conducted, as required by CERCLA Section 121(c), 42 U.S.C. Section 9621(c), no less often than every five (5) years after the initiation of the final response action for each Operable Unit so long as hazardous substances, pollutants or contaminants remain within the area covered by that operable unit.

18.3 The assessment and selection of any additional response actions determined necessary as a result of a periodic review shall be in accordance with Section 19, Supplemental Response Actions. Except for emergency response actions, which shall be governed by Section 17, Emergencies and Removals, such response actions shall be implemented as a supplemental response action in accordance with Section 19, Supplemental Response Actions.

XIX. SUPPLEMENTAL RESPONSE ACTIONS

19.1 The Parties recognize that subsequent to finalization of a ROD, a need may arise for one or more supplemental response actions to remedy continuing or additional releases or threats of releases of hazardous substances, pollutants or contaminants at or from the Site. If such a release or threat of release presents an immediate threat to public health or welfare or the environment, it shall be addressed pursuant to Section 17, Emergencies and Removals. If such release or threat of release does not present an immediate threat to public health or welfare or the environment, it shall be addressed pursuant to Subsections 19.2 through 19.6 below, regardless of whether the determination of the need for such supplemental response action is based on a Periodic Review conducted pursuant to Section 18, Periodic Review, or on some other source of information.

19.2 A supplemental response action shall be undertaken only when:

A. A determination is made that:

(1) As a result of the release or threat of release of a hazardous substance, pollutant or contaminant at or from the Site, an additional response action is necessary and appropriate to assure the protection of human health or the environment; or,

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

B. Either of the following conditions is met for any determination made pursuant to Subsection 19.2 A. above:

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

(2) For supplemental response actions proposed after EPA Certification, the determination must be based upon conditions at the Site that were unknown at the time of EPA Certification or based upon new information received in whole or in part by EPA following EPA Certification.

19.3 If, subsequent to ROD signature, any Party concludes that a supplemental response action is necessary, based on the criteria set forth in Section 19.2, such Party shall promptly notify the others of its conclusion in writing. The notification shall specify the nature of the modification needed and the new information on which it is based. The Project Managers shall confer and attempt to reach consensus on the need for such an action within thirty (30) days of the receipt of such notice. If within that thirty (30) day period, the Project Managers have failed to reach consensus, any Party may notify the other Parties in writing within ten (10) days thereafter that it intends to invoke dispute resolution. If the Project Managers are still unable to reach consensus within fourteen (14) days of the issuance of such notice, the question of the need for the supplemental response action shall be resolved through dispute resolution.

19.4 If the Project Managers agree, or if it is determined through dispute resolution, that a supplemental response action is needed based on the criteria set forth in Section 19.2, within thirty (30) days after that agreement or determination, DGSC shall submit to EPA and VDWM a SOW which will contain proposed deadlines for the submission of a Supplemental Work Plan.

19.5 DGSC shall submit the Supplemental Work Plan in accordance with the approved deadline in the SOW.

19.6 After finalization of a Supplemental Work Plan, DGSC shall conduct a Supplemental Response Action RI/FS. Following finalization of the Supplemental Response Action RI/FS, DGSC shall, after consultation with EPA and VDWM, publish its Proposed Plan for forty-five (45) days of public review and comment in accordance with CERCLA Section 117(a), 42 U.S.C. Section 9617(a), and the NCP. DGSC shall prepare and submit a draft Supplemental Response Action ROD to EPA and VDWM within thirty (30) days following the close of the public comment period. Pursuant to 42 U.S.C. Section 9620(e)(4)(A), the EPA Administrator and the Director of DLA, in consultation with VDWM, shall make the final selection of the remedial action(s) for each Supplemental Response Action. If the Administrator and the Director are unable to reach agreement, the Administrator, after consultation with the Deputy Assistant Secretary of Defense (Environment), shall select the remedy. If the proposed remedial action does not attain a legally applicable or relevant and appropriate standard, requirement, criteria or limitation, VDWM shall be provided with an opportunity at least thirty (30) days prior to the publication of DGSC's final remedial action plan to concur or not concur in accordance with CERCLA Section 121(f)(3)(A), 42 U.S.C. 9621(f)(3)(A). If VDWM concurs or does not act within thirty (30) days, the remedial action may proceed. If VDWM does not concur, it may act pursuant to Section 121(f)(3)(B) of CERCLA, 42 U.S.C. Section 9621(f)(3)(B). The selection of remedial action(s) by the EPA Administrator shall be final and not subject to dispute by DLA and VDWM. Within thirty (30) days following signature of the ROD, DGSC shall propose a remedial design due date. If EPA or VDWM disagrees with this date, the date will be established through dispute resolution. The remedial design shall contain a schedule and target dates for completion of the remedial action. A dispute under this Subsection on any matter other than EPA's final selection of a remedial action shall be resolved pursuant to Section 20, Dispute Resolution. DGSC shall perform the supplemental response action in accordance with the approved remedial design.

19.7 Supplemental Response Actions shall then follow the procedures described in Section 9.7, 9.8 and 9.10.

XX. DISPUTE RESOLUTION

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

the procedures of this Section shall be implemented to resolve a dispute.

20.2. Within thirty (30) days after: (a) issuance of a draft final Primary Document pursuant to Section 10, Consultation, or (b) any action which leads to or generates a dispute, the disputing Party shall submit to the other Parties a written statement of dispute setting forth the nature of the dispute, the work affected by the dispute, the disputing Party's position with respect to the dispute and the technical, legal and/or factual information the disputing Party is relying upon to support its position.

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

20.4. The Dispute Resolution Committee (DRC) will serve as a forum for resolution of disputes for which agreement has not been reached through informal dispute resolution. The Parties shall each designate one individual and an alternate to serve on the DRC. The individuals designated to serve on the DRC shall be employed at the policy level (Senior Executive Service [SES] or equivalent) or be delegated the authority to participate on the DRC for the purposes of dispute resolution under this Agreement. The EPA representative on the DRC is the Hazardous Waste Management Division Director for EPA Region III. DLA's designated member is the Commander, DGSC. VDWM's representative on the DRC is the Director of Special Programs. Written notice of any delegation of authority from a Party's designated representative on the DRC shall be provided to all other Parties pursuant to the procedures of Section 14, Notice to the Parties.

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

20.6. The SEC will serve as the forum for resolution of disputes for which agreement has not been reached by the DRC. The EPA representative on the SEC is the Regional Administrator of EPA Region III. DLA's representative on the SEC is the Staff Director, Directorate of Installation Services and Environmental Protection, DLA. VDWM's representative on the SEC is its Agency Director. The SEC members shall, as appropriate, confer, meet, and exert their best efforts to resolve the dispute and issue a

written decision signed by all Parties. If unanimous resolution of the dispute is not reached within twenty-one (21) days after elevation to the SEC, the Regional Administrator of EPA Region III shall thereafter issue a written position on the dispute. DLA or VDWM may, within twenty-one (21) days of the issuance of the EPA Regional Administrator's written notice of position, issue a written notice elevating the dispute to the Administrator of EPA for resolution in accordance with all applicable laws and procedures. In the event that DLA and/or VDWM elects not to elevate the dispute to the Administrator within the designated twenty-one (21) day escalation period, DLA or VDWM shall be deemed to have agreed with the Regional Administrator's written position with respect to the dispute.

20.7. Upon escalation of a dispute to the Administrator of EPA pursuant to Subsection 20.6 above, the Administrator will review and resolve the dispute within twenty-one (21) days. Upon request, and prior to resolving the dispute, the EPA Administrator shall meet and/or confer with the Director of DLA or the Deputy Assistant Secretary of Defense (Environment) and the Secretary of Natural Resources Director, Commonwealth of Virginia, to discuss the issue(s) under dispute. If any of the Parties are unable to meet or confer during the twenty-one day period, the Party shall provide written notice to the other Parties and request an extension under Section 12, Extensions. Upon resolution the Administrator shall provide DLA and VDWM with a written final decision setting forth resolution of the dispute. The duties of the Administrator set forth in this Section shall not be delegated.

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

20.9. Work Stoppage

A. When dispute resolution is in progress, work affected by the dispute will immediately be discontinued if the Hazardous Waste Management Division Director of EPA Region III requests, in writing, that work related to the dispute be stopped because, in EPA's opinion, such work is inadequate or defective, and such inadequacy or defect is likely to yield an adverse effect on human health or the environment, or is likely to have a substantial adverse effect on the remedy selection or implementation process.

B. To the extent practicable, any Party seeking a work stoppage shall consult with the other Parties prior to initiating a work stoppage request. After the Hazardous Waste Management Division Director of EPA Region III makes a determination on stoppage of work, if a Party believes that the determination is inappropriate, or may have potential significant adverse impacts, the Party may meet with the other Parties to discuss the determination. Following this conference, and further consideration of the issues, the EPA Hazardous Waste Management Division Director will issue, in writing, a final decision with respect to the work stoppage. The final written decision of the EPA Division Director may immediately be subject to formal dispute resolution. Such dispute may be brought directly to either the DRC or the SEC, at the discretion of the Party requesting dispute resolution.

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

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

XXI. STIPULATED PENALTIES

21.1 In the event that DGSC fails to submit a Primary Document, as listed in Section 10, Consultation, to EPA or VDWM in accordance with the appropriate schedule or deadline or requirements of this Agreement, or fails to comply with a term or condition of this Agreement which relates to an operable unit response action, EPA may assess a stipulated penalty against DLA. A stipulated penalty may be assessed in an amount not to exceed $5,000 for the first week (or part thereof), and $10,000 for each additional week (or part thereof) for which a failure set forth in this section occurs.

21.2 Upon determining that DLA has failed in a manner set forth in Subsection 21.1, EPA or VDWM shall so notify DLA in writing. If the failure in question is not already subject to dispute resolution at the time such notice is received, DLA shall have fifteen (15) days after receipt of the notice to invoke dispute resolution on the question of whether the failure did in fact occur. DLA shall not be liable for any stipulated penalty assessed by EPA if the failure is determined, through the dispute resolution process, not to have occurred. No assessment of a stipulated penalty shall be final until the conclusion of dispute

resolution procedures related to the assessment of the stipulated penalty.

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

A. The facility responsible for the failure;

B. A statement of the facts and circumstances giving rise to the failure;

C. A statement of any administrative or other corrective action taken, or a statement of why such measures were determined to be inappropriate;

D. A statement of any additional action taken by or at the Facility to prevent recurrence of the same type of failure; and

E. The total dollar amount of the stipulated penalty assessed for the particular failure.

21.4 Stipulated penalties assessed pursuant to this Section shall be payable to the Hazardous Substances Superfund (EPA) only in the manner and to the extent expressly provided for in Acts authorizing funds for, and appropriations to, the DoD and shall be sent to: EPA Superfund, P.O. Box 360515M, Pittsburgh, Pa. 15251.

21.5 In no event shall this Section give rise to a stipulated penalty in excess of the amount set forth in CERCLA Section 109, 42 U.S.C. Section 9609.

21.6 This Section shall not affect DLA's ability to obtain an extension of a deadline or schedule pursuant to Section 12, Extensions.

21.7 Nothing in this Agreement shall be construed to render any military personnel assigned to or officer or employee of DLA personally liable for the payment of any stipulated penalty assessed pursuant to this Section.

XXII. FORCE MAJEURE

22.1 A force majeure, for the purpose of this Agreement, shall mean any event arising from causes beyond the control of a Party that causes a delay in or prevents the performance of any obligation under this Agreement, e.g., acts of God; fire; war; insurrection; civil disturbance; explosion; unanticipated breakage or accident to machinery, equipment or lines of pipe, despite reasonably diligent maintenance, which are necessary to the performance of the work under this Agreement; unusually

severe weather conditions; unusual delay in transportation due to circumstances beyond the control of any Party; restraint by court order or order of public authority; inability to obtain, at appropriate cost and after exercise of reasonable diligence, any authorizations, approvals, permits or licenses necessary to perform the work; provided, that the inability is due to action or inaction of any governmental agency or authority other than the party claiming the force majeure; strike or other labor dispute, such as a walkout, whether or not within the control of the Parties affected; delays caused by compliance with applicable statutes or regulations governing contracting, procurement or acquisition procedures, despite the exercise of reasonable diligence; and insufficient availability of appropriated funds, if DLA shall have made timely request for such funds as part of the budgetary process as set forth in Section 27, Funding. A force majeure shall not include increased costs or expenses of Response Actions, whether or not anticipated at the time such Response Actions were initiated.

22.2 Notification of a force majeure event shall be made in accordance with Section 12, Extensions, of this Agreement.

XXIII. ENFORCEABILITY

23.1 The Parties agree that:

A. Upon the effective date of this Agreement, any standard, regulation, condition, requirement, or order which has become effective under CERCLA and is incorporated into this Agreement is enforceable by any person pursuant to Section 310 of CERCLA, and any violation of such standard, regulation, condition, requirement, or order will be subject to civil penalties under Sections 310(c) and 109 of CERCLA, 42 U.S.C. Sections 9659(c) and 9609;

B. All schedules or deadlines associated with the RIs and FSs shall be enforceable by any person pursuant to Section 310 of CERCLA, and any violation of such schedules or deadlines will be subject to civil penalties under Sections 310(c) and 109 of CERCLA;

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

D. Any final resolution of a dispute pursuant to Section 20, Dispute Resolution, of this Agreement which establishes a term, condition, deadline or schedule shall be enforceable by any person pursuant to Section 310(c) of CERCLA, and any violation of

such term, condition, deadline, or schedule will be subject to civil penalties under Sections 310(c) and 109 of CERCLA.

23.2 Nothing in this Agreement shall be construed as authorizing any person to seek judicial review of any action or work where review is barred by any provision of CERCLA, including Section 113(h) of CERCLA, 42 U.S.C. Section 9613(h).

23.3 Nothing in this Agreement shall be construed as a restriction or waiver of any rights EPA, VDWM, DLA or DGSC may have under CERCLA, including but not limited to any rights under Sections 113, 120, 121 and 310 of CERCLA, 42 U.S.C Sections 9613, 9620, 9621 and 9659. DLA and DGSC do not waive any rights they may have under 10 U.S.C. Section 2701 et seq. and Executive Order 12580.

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

XXIV. OTHER CLAIMS

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

24.2 DLA shall notify the appropriate federal and state natural resources trustees of potential damages to natural resources resulting from releases under investigation, as required by Section 104(b)(2) of CERCLA, 42 U.S.C. Section 9604(b)(2), and Section 2(e)(2) of Executive Order 12580. Except as provided herein, DLA is not released from any liability which it may have pursuant to any provisions of state and federal law, including any claim for damages for destruction of, or loss of, natural resources.

XXV. RESERVATION OF RIGHTS

25.1 The Parties shall exhaust their rights under this Agreement, including Section 21, Dispute Resolution, prior to exercising any rights to judicial review that they may have under CERCLA.

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

25.3 Nothing in this Agreement shall limit the discretion of DLA, DGSC, EPA or VDWM to enter into an agreement with any other potentially responsible party for the performance of a remedial investigation, feasibility study, or remedial action at or in the vicinity of the Facility if EPA, in consultation with DLA, DGSC, and VDWM, determines that such a party is qualified to do the work, and remedial investigation, feasibility study, or remedial action activities will be done properly by such other party under the provisions of Section 120(e)(6) of CERCLA, 42 U.S.C. Section 9620(e)(6).

25.4 VDWM shall retain all rights it has pursuant to Section 121(f)(3) of CERCLA, 42 U.S.C. Section 9621(f)(3) and Commonwealth law. If VDWM does not exercise its rights under Section 121(f)(3) of CERCLA in a timely manner, the response action may proceed.

XXVI. PROPERTY TRANSFER

26.1 No change or transfer of any interest in the Facility or any part thereof shall in any way alter the status or responsibility of the Parties under this Agreement. To the extent practicable, DGSC agrees to give EPA and VDWM sixty (60) days notice prior to the sale or transfer by the United States of any title, easement, or other interest in the real property affected by this Agreement. DGSC agrees to request the owner to include notice of this Agreement in any document transferring ownership of the Facility or any portion of the Facility to any subsequent owner in accordance with Section 120(h) of CERCLA, 42 U.S.C. Section 9620(h) and 40 C.F.R. Part 373.

26.2 In accordance with Section 120(h) of CERCLA, 42 U.S.C. Section 9620(h) and 40 C.F.R. Part 373, DGSC shall include notice of this Agreement in any Host/Tenant Agreement or Memorandum of Understanding that permits any non-DGSC activity to function as an operator on any portion of the Site.

XXVII. FUNDING

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

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

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

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

27.5 Funds authorized and appropriated annually by Congress under the "Environmental Restoration, Defense" appropriation in the Department of Defense Appropriation Act and allocated by the Deputy Assistant Secretary of Defense (Environment) to DLA will be the source of funds for activities required by this Agreement consistent with 10 U.S.C. Chapter 160. However, should the Environmental Restoration, Defense appropriation be inadequate in any year to meet the total DLA CERCLA implementation requirements, the DoD shall employ and DLA shall follow a standardized DoD prioritization process which allocates that year's appropriations in a manner which maximizes the protection of human health and the environment. A standardized DoD prioritization model, the Defense Priority Model, shall be utilized with the assistance of EPA and the states.

XXVIII. REIMBURSEMENT OF VIRGINIA SERVICES

28.1 DLA and VDWM agree to use the Defense State Memorandum of Agreement, DSMOA, signed on August 31, 1990 for the reimbursement of services provided in direct support of DLA environmental restoration activities at the Site pursuant to this Agreement.

XXIX. RECOVERY OF EPA EXPENSES

29.1 The Parties agree to amend this Agreement at a later date in accordance with any subsequent national resolution of the issue of EPA cost reimbursement for CERCLA response costs incurred by EPA.

XXX. QUALITY ASSURANCE

30.1 DGSC shall use quality assurance, quality control, and chain of custody procedures throughout all field investigation, sample collection and laboratory analysis activities. A Quality Assurance Project Plan (QAPP) shall be submitted as a component of each Work Plan, which will be reviewed as a Primary Document

pursuant to Section 10, Consultation, of this Agreement. QAPPs shall be prepared in accordance with applicable guidance issued by EPA.

30.2. In order to provide for quality assurance and maintain quality control regarding all field work and samples collected pursuant to this Agreement, DGSC shall include in each QAPP submitted to EPA and VDWM for review and comment all protocols to be used for sampling and analysis. DGSC shall also ensure that any laboratory used for analysis is a participant in a quality assurance/quality control program that is consistent with guidance issued by EPA.

30.3. DGSC shall ensure that EPA and/or VDWM or their authorized representatives shall have access to all laboratories performing analyses on behalf of DGSC pursuant to this Agreement.

XXXI. RECORD PRESERVATION

31.1 Despite any document retention policy to the contrary, EPA and DGSC shall preserve, during the pendency of this Agreement and for a minimum of seven (7) years after its termination, all records and documents in their possession which relate to actions taken pursuant to this Agreement. VDWM shall preserve all records and documents in its possession that relate to actions taken pursuant to this Agreement in accordance with Commonwealth law and VDWM policy. After the seven (7) year period, or for VDWM at the expiration of its document retention period, each Party shall notify the other Parties at least thirty (30) days prior to the proposed destruction or disposal of any such documents or records. Upon the request by any Party, the requested Party shall make available such records or copies of any such records unless withholding is authorized and determined appropriate by law. The Party withholding such records shall identify any documents withheld and the legal basis for withholding such records. No records withheld shall be destroyed until thirty (30) days after the final decision by the highest court or administrative body requested to review the matter.

XXXII. SAMPLING AND DATA/DOCUMENT AVAILABILITY

32.1. Each Party shall make available to the other Parties all the quality-assured results of sampling, tests, or other data or documents generated through the implementation of this Agreement. All quality-assured data will be supplied within sixty (60) days of sample collection. Raw data and data validation packages shall be included with these results only if quality-assured data is not available within sixty (60) days. If quality assurance is not completed within sixty (60) days, raw data or results shall be submitted within the sixty (60) day period and quality-assured data or results shall be submitted as soon as they become available.

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

XXXIII. CONFIDENTIAL INFORMATION

33.1 DLA may assert a confidentiality claim for information to which it would be entitled to claim an exemption pursuant to the Freedom of Information Act, 5 U.S.C. Section 552(b), covering information requested by this Agreement. Analytical data shall not be claimed as confidential by DLA. Information claimed to be confidential by DLA pursuant to the Freedom of Information Act shall be afforded the protection specified therein.

33.2 If EPA requests DLA confidential information to which it is entitled, EPA shall comply with the protections in 40 C.F.R. Section 2.111(d).

33.3 If DLA refuses to comply with an EPA request for information, it shall identify the document and summarize the contents of such document.

33.4 If VDWM requests DLA confidential information, it shall ensure that it can maintain the confidentiality of the information and provide proper assurance to DLA. If VDWM cannot provide such assurance, DLA shall not disclose the information.

33.5 If no claim of confidentiality accompanies the information when it is submitted to EPA and VDWM, the information may be made available to the public without further notice to DLA.

XXXIV. PUBLIC PARTICIPATION AND COMMUNITY RELATIONS

34.1. The Parties shall comply with all relevant public participation requirements of CERCLA, the NCP, guidances issued by EPA, and Commonwealth statutes and regulations. VDWM agrees to inform DGSC of all Commonwealth requirements which it believes pertain to public participation. The provisions of this Section shall be carried out in a manner consistent with, and shall fulfill the intent of, Section 7, Statutory Compliance/ RCRA-CERCLA Integration.

34.2. DGSC shall establish and maintain an administrative record at a place, at or near the Facility, which is freely accessible to the public and shall provide the documentation supporting the selection of each response action. The administrative record

shall be established and maintained in accordance with Section 113(k) of CERCLA, Subpart I of the NCP and applicable guidance issued by EPA. A copy of each document placed in the administrative record, not already provided, will be provided by DGSC to the other Parties. The administrative record developed by DGSC shall be updated and new documents supplied to the other Parties on at least a quarterly basis. An index of documents in the administrative record will accompany each update of the administrative record.

34.3 In accordance with Section 11, Deadlines, DGSC shall develop and implement a Community Relations Plan (CRP) which shall be a Primary Document and developed in accordance with CERCLA, the NCP, guidances issued by EPA, and Commonwealth statutes and regulations.

XXXV. TECHNICAL REVIEW COMMITTEE

35.1 Pursuant to 10 U.S.C. Section 2705(c), DGSC shall establish a Technical Review Committee (TRC). The Parties shall participate in the TRC as follows:

A. A DGSC representative who shall chair the TRC;
B. An EPA representative, and
C. A VDWM representative.

The Parties shall encourage representatives from the following organizations to serve as members of the TRC:

D. A representative from the Chesterfield County Department of Health Services, Environmental Division, and

E. A Chesterfield County public representative.

35.2 The chairman shall schedule quarterly meetings of the TRC unless the Parties agree to meet less frequently. If possible, meetings shall be held in conjunction with the meetings of the Project Managers. Meetings of the TRC shall be for the purpose of reviewing progress under the Agreement. Special meetings of the TRC may be held at the request of the members.

XXXVI. PUBLIC COMMENT

36.1. The provisions of this Section shall be carried out in a manner consistent with, and shall fulfill the intent of Section 7, Statutory Compliance/RCRA-CERCLA Integration. Public comment on this Agreement shall be conducted in accordance with this Section.

36.2 Within fifteen (15) days after the execution of this Agreement, the date on which EPA signs, or as soon thereafter as possible to conform with RCRA permit modification requirements,

EPA shall publish notice in at least one major local newspaper of general circulation that this Agreement is available for a forty-five (45) day period of public review and comment.

36.3 Promptly upon completion of the public comment period, EPA shall transmit copies of all comments received within the comment period to the other Parties.

36.4 Within thirty (30) days after transmittal, the Parties shall review the comments and shall either:

A. Determine that the Agreement should be made effective in its present form, in which case EPA shall immediately notify the other Parties in writing, and this Agreement shall become effective on the effective date of permit modification. EPA shall then issue a notice to the Parties within three working days of the effective date, or,

B. Determine that modification of the Agreement is necessary, in which case the Parties shall meet to discuss and agree upon any proposed changes. Upon agreement by the Parties on any proposed changes, the Agreement, as modified, shall be re-executed by the Parties, with EPA signing last, and shall become effective on the date it is signed by EPA. If agreement is not obtained within ten (10) days after the determination to modify is made, the matter shall be referred to the persons representing the Parties on the Senior Executive Committee who shall attempt to reach a consensus.

36.5 If the Parties do not reach a consensus on the proposed modification, DLA, DGSC and VDWM reserve the right to withdraw from the Agreement within twenty (20) days of EPA's transmission of the modified Agreement to the Parties. If VDWM withdraws and EPA, DLA and DGSC agree to proceed, the Agreement shall be effective as to EPA, DLA and DGSC. If DLA, DGSC or VDWM fail to provide EPA with written notice of withdrawal from the Agreement within such twenty (20) day period, the Agreement, as modified shall become effective on the effective date of permit modification. EPA shall issue a notice to the Parties within three working days of the effective date.

36.6 In the event of significant modification or public comment under Subsection 36.2 on the text of the Agreement, notice procedures of Section 117 of CERCLA, 42 U.S.C. Section 9617, shall be followed and a responsiveness summary shall be published by EPA.

36.7 Existing records maintained by DGSC which will be included in the Administrative Record such as reports, plans, and schedules, shall be made available by DGSC for public review during the public comment period. The public notices announcing the public comment period shall include information advising the public as to availability and location of these records.

XXXVII. EFFECTIVE DATE

37.1 Section 36, Public Comment, shall be effective upon signature by all Parties. This Agreement shall be effective in its entirety among the Parties immediately upon fulfillment of the requirements of Section 36, Public Comment.

XXXVIII. AMENDMENT OF AGREEMENT

38.1 The language of this Agreement shall only be amended upon written consent of all Parties. Such amendments shall be in writing and shall have as their effective date that date on which they are signed by all the Parties. The last signing Party, EPA, shall provide notice to the other Parties of the effective date.

38.2 During the course of activities under this Agreement, the Parties anticipate that statutes, regulations, guidance, and other rules will change. Those changed statutes, regulations, guidance, and other rules will be applied to the activities under this Agreement in the following manner:

A. Applicable statutes and regulations shall be applied in accordance with the statutory or regulatory language on applicability, and if applied to ongoing activities, shall be applied on the effective date provided. However, the Parties shall, to the extent practicable, apply them in such a way as to avoid as much as possible the need for repeating work already accomplished.

B. Applicable policy or guidance shall be applied as it exists at the time of initiation of the work in issue.

C. Applicable policy or guidance which is changed after the initiation of the work in issue or after its completion shall be applied subject to Section 20, Dispute Resolution. The Party proposing application of such changed policy or guidance shall have the burden of proving the appropriateness of its application. In any case, the Parties shall, to the extent practicable, apply any changed policy or guidance in such a way as to avoid, as much as possible, the need for repeating work already accomplished.

XXXIX. TERMINATION AND SATISFACTION

39.1 When DGSC determines that the work set forth in Section 9, Work To Be Performed, has been completed in accordance with the requirements of this Agreement, it shall so advise EPA and VDWM in writing and shall propose that the Agreement be terminated on a showing that the Agreement's objectives have been satisfied. This Agreement shall be deemed satisfied and terminated upon receipt by DLA of written notice from EPA and VDWM that DLA has completed its obligations under the terms of this Agreement.

39.2 If EPA and/or VDWM denies or otherwise fails to grant a termination notice within sixty (60) days of receiving a written proposal from DLA, the Party denying termination shall provide a written statement of the basis for its denial and describe the actions necessary to grant a termination notice. If the Parties do not reach consensus on a proposed termination of the Agreement, the issue shall be resolved through Section 20, Dispute Resolution.

AUTHORIZED SIGNATURES

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

IT IS SO AGREED:

By _____ 14 Sep '90 Date

COLONEL W. R. ANDREWS, JR., USA
Staff Director
Directorate of Installation Services and
Environmental Protection
Defense Logistics Agency

By _____ 18SEP90 Date

REAR ADMIRAL P. A. BONDI, SC, USN
Commander
Defense General Supply Center

By _____ 10/29/90 Date

EDWIN B. ERICKSON
Regional Administrator
Environmental Protection Agency, Region III

By _____

CYNTHIA V. BAILEY
Director
Department of Waste Management
Commonwealth of Virginia

Date
9/21/90

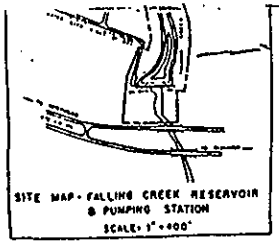
ATTACHMENT A

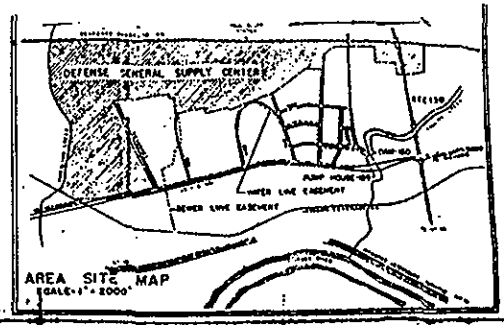
EXPANDED SITE INVESTIGATION AREAS

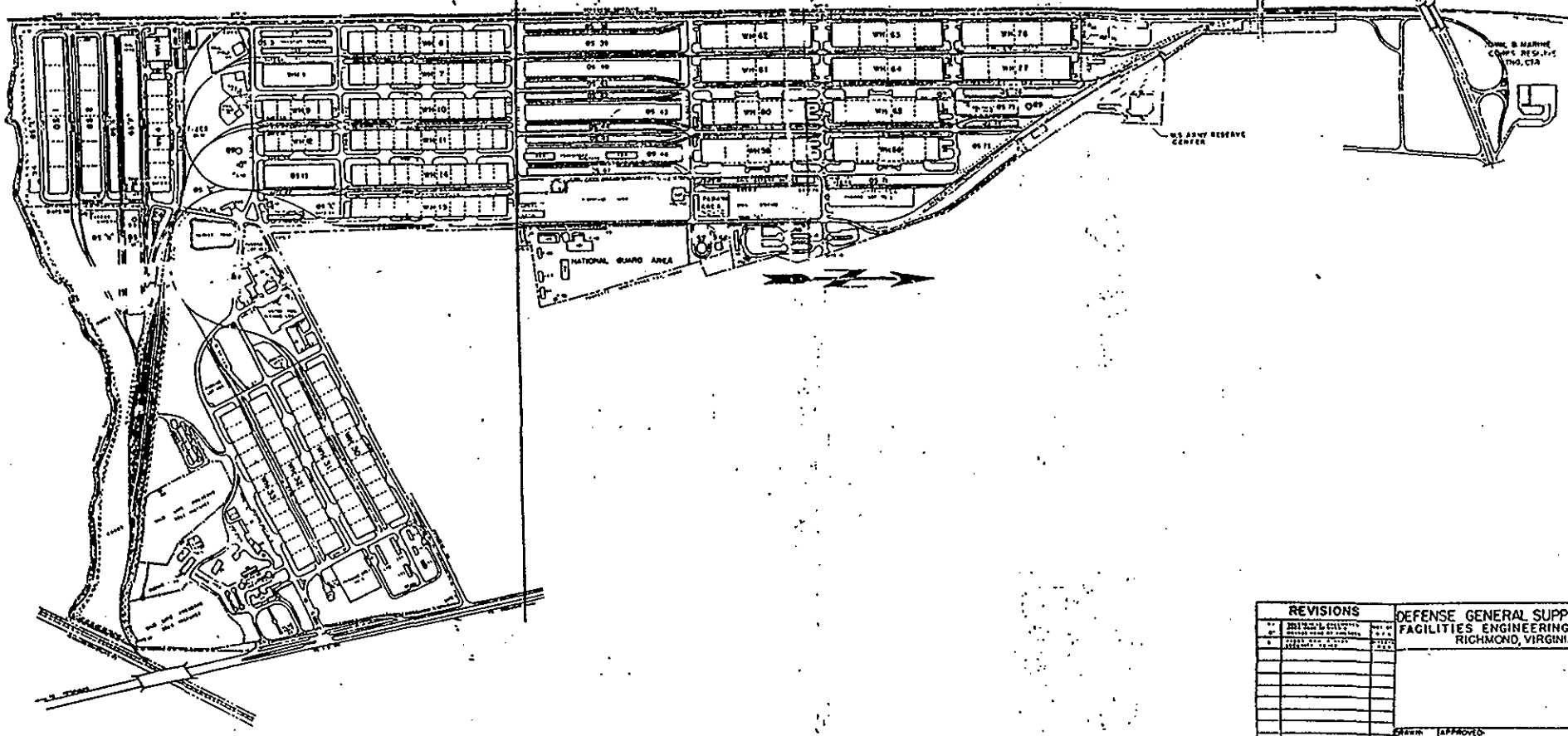
1. Transitory Shelter 202
2. Parker Pond
3. Building 68 (warehouse)
4. Classification Yard - 20 (Al phosphide Ash bucket)
5. Building 112 (pesticides Shop)
6. Fuel Oil Storage - 300,000 gallon above ground tank

EXCLUSIVE FEDERAL JURISDICTION

PROPRIETARY (VIRGINIA) JURISDICTION







REVISIONS			DEFENSE GENERAL SUPPLY CENTER FACILITIES ENGINEERING DIVISION RICHMOND, VIRGINIA	
			DRAWN	APPROVED: FAC. ENG. DIV.	DATE
			CHECKED	SCALE: 1" = 400'	SHEET OF	DRWG. NO.

Attachment B

THE OFFICE OF THE ASSISTANT SECRETARY OF DEFENSE
WASHINGTON, D.C. 20301-8000

PRODUCTION AND
LOGISTICS

SEP 29 1989

E

MEMORANDUM FOR DEPUTY ASSISTANT SECRETARY OF THE ARMY,
ENVIRONMENT, SAFETY AND OCCUPATIONAL
HEALTH, OASA (I&L)
DEPUTY DIRECTOR FOR ENVIRONMENT, OASN (S&L)
DEPUTY ASSISTANT SECRETARY OF THE AIR FORCE
(ENVIRONMENT, SAFETY AND OCCUPATIONAL HEALTH),
SAF/RQ
DIRECTOR, DEFENSE LOGISTICS AGENCY (DLA-W)
ASSISTANT CHIEF OF ENGINEERS (DAEN-ZCZ-A)

SUBJECT: Management Guidance for Execution of the FY 1990/91 Defense Environmental Restoration Program (DERP)

DoD policy and management guidance for execution of the Defense Environmental Restoration Program (DERP) and the transfer account in FY 1990 and FY 1991 are provided in this memorandum and in the Attachments.

Defense Environmental Restoration Program (DERP) funds may be used for Installation Restoration (IR), for Other Hazardous Waste Operations (OHW) and for Building Demolition/Debris Removal (BD/DR). Installation Restoration Program activities must be given highest priority, and we must demonstrate DoD's policy of addressing the worst sites first.

Within the IRP there are several areas we should emphasize during FY 1990/91 with an overall goal of protecting human health and preventing deterioration of our environmental resources:

- Take removal actions immediately upon discovery of an imminent and substantial threat to human health or the environment.
- Conduct Preliminary Assessments (PA) in a systematic and comprehensive manner at those installations which, due to past activities, have increased potential for contamination problems.
- Take interim actions or stabilization measures through the removal process to prevent deterioration of site conditions and save life cycle costs.
- Demonstrate a bias for action by initiating removal or interim remedial activities at our most serious sites

Attachment C

as quickly as possible, and tailoring RI/FS work to identify in a cost effective manner, the preferred remedy at a site consistent with appropriate National Contingency Plan and State requirements.

- Strive to accomplish final remedial actions at our most serious sites.

- Cooperate and coordinate program activities as appropriate with Federal, State and local agencies. Enter Interagency Agreements in accordance with OSD guidance and follow conditions in Defense and State Memorandums of Agreement.

- Conduct research and development for cost-effective technologies which address DoD unique problems or have widespread applicability within DoD.

- Improve program databases. Each Component must maintain accurate and up-to-date status and funding information on individual sites at all installations, and provide these data to ODASD(E) for entry into the Interim DERP Management Information System (I-DERPMIS).

- Identify sites for which no further action is necessary. Work with EPA and States to identify, and develop supporting documentation for sites which can be closed out. Identify these sites for ODASD(E) for entry into the I-DERPMIS.

- Build and maintain community involvement in program activities.

Within OHW, DERP efforts should be directed toward:

- Initiating hazardous waste minimization and recycling efforts, with a goal of integrating these concepts into all DoD mission programs.

The efforts identified above should be pursued within established program priorities described in the Attachment.

Program oversight by this office will be primarily through quarterly In-Progress Reviews (IPRs) and the I-DERPMIS. A list of discussion topics and information requirements for the IPRs is provided at Attachment 2. A list of additional issues for discussion will be disseminated prior to each IPR.

This guidance is effective immediately. It supersedes my memorandum of December 9, 1988 on the same subject. This guidance will be incorporated into a DoD Instruction.

Forward two copies of implementing instructions to this office within 60 days.

William H. Parker, III, P.E.
Deputy Assistant Secretary of Defense
(Environment)

Attachments

cc: ENVR-E
CEMP-R
OP-45
AF/LEEV
HQMC/LFL

THE OFFICE OF THE ASSISTANT SECRETARY OF DEFENSE
WASHINGTON, D.C. 20301-8000

NOV 13 '89

PRODUCTION AND
LOGISTICS

MEMORANDUM FOR DEPUTY ASSISTANT SECRETARY OF THE ARMY,
(ENVIRONMENT), SAFETY AND OCCUPATIONAL
HEALTH), OASA (I&L)
DEPUTY DIRECTOR FOR ENVIRONMENT, OASN (S&L)
DEPUTY ASSISTANT SECRETARY OF THE AIR FORCE,
(ENVIRONMENT, SAFETY AND OCCUPATIONAL
HEALTH), SAF/RQ
DIRECTOR, DEFENSE AGENCIES
ASSISTANT CHIEF OF ENGINEERS (DAEN-ZCA)

SUBJECT: Defense Environmental Restoration Program Authorities

This memorandum clarifies authorities and responsibilities for executing the Defense Environmental Restoration Program (DERP) as provided for by 10 USC 2701-3, 10 USC 2910 and EO 12580. The authority to carry out these provisions has been delegated to me by Memorandum of the Deputy Secretary of Defense, dated December 6, 1988 (Attached).

Our current Management Guidance for execution of the FY 1990/1991 DERP was issued on September 29, 1989. The section of guidance entitled "Component Executive Program Managers" provides implementation instructions for those provisions and constitutes re-delegation of authority for activities consistent with fiscal, management and other policies provided by the Defense Department in support of DERP execution. You may (through implementing instructions) re-delegate this authority as appropriate except as otherwise specifically indicated above or prohibited by law or regulation.

All environmental response actions taken by you or your agencies prior to September 29, 1989, that are consistent with previous management guidance provided by this office are hereby ratified.

William H. Parker, III, P.E.
Deputy Assistant Secretary of Defense
(Environment)

Attachments

Attachment D

THE DEPUTY SECRETARY OF DEFENSE

WASHINGTON, D.C. 20301

6 DEC 1988

MEMORANDUM FOR DEPUTY ASSISTANT SECRETARY OF DEFENSE
(ENVIRONMENT)

SUBJECT: Delegation of Environmental Response Authorities

Pursuant to the authority vested in the Secretary of Defense, and subject to the direction, authority, and control of the Under Secretary of Defense for Acquisition and the Assistant Secretary of Defense for Production and Logistics, and in accordance with Department of Defense policies, Directives, and Instructions, the Deputy Assistant Secretary of Defense for Environment (DASD(E)) or, in the absence of the DASD(E), the person acting for the DASD(E), is hereby delegated authority to:

1. Exercise all authorities delegated to the Secretary of Defense by Executive Order 12580, January 23, 1987, concerning responses to releases of hazardous substances for Department of Defense facilities and vessels under the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. §§9601 et seq.) as amended by the Superfund Amendments and Reauthorization Act (P.L. 99-499, October 17, 1986).

2. Exercise all responsibilities and authority of the Secretary of Defense under 10 U.S.C. §§2701 - 2707 and 10 U.S.C. §2810 with respect to conduct of the Defense Environmental Restoration Program.

The DASD(E) may redelegate these authorities, as appropriate, and in writing, except as otherwise specifically indicated above or prohibited by law or regulation.

William H. Taft, IV

45597

Permit Contract No. DACA65-4-87-5

DEPARTMENT OF THE ARMY
PERMIT TO DEFENSE LOGISTICS AGENCY FOR USE OF AN ENTIRE INSTALLATION

DEFENSE LOGISTICS AGENCY is hereby granted a permit for a term of five years, beginning 1 January 1987 and ending 31 December 1991, but revocable at will by the Secretary of the Army, to use and occupy lands and facilities at the DEFENSE GENERAL SUPPLY CENTER (formerly Richmond Quartermaster Depot), Chesterfield County, near Richmond, Virginia, as shown substantially in red on Exhibit "A" attached hereto and made a part hereof, and described as follows:

All those certain tracts or parcels of land comprising the currently known Defense General Supply Center, Chesterfield County, Virginia, being the entire installation containing a total of 656.94 acres, more or less.

THIS PERMIT is granted subject to the following conditions:

1. That the use and occupancy of the said premises shall be without cost to the Department of the Army, and that all costs incident to the maintenance, construction, rehabilitation, repair, alteration, addition, expansion or extension of the premises herein permitted shall be funded by the permittee.

2. That any interference with property under control of the Department of the Army incident to the exercise of the privileges herein granted shall be promptly corrected by the permittee, and the cost of repairing any damage shall be borne by the permittee.

3. Utilities or services furnished by one party to the other shall be in acccordance with a separate cross-service agreement; the cost of supplying utilities or other services shall be on a reimbursable basis as provided by regulation.

4. That the permittee may cause to have made such additions and alterations to the premises herein authorized as are required for the performance of its mission, subject to the provisions of paragraph 5 hereof.

5. Any maintenance, construction, rehabilitation, repair, alteration, addition, expansion, or extension to the properties herein permitted shall be accomplished by or through the Department of the Army, as required by applicable provisions of law and Department of Defense Directive 4270.5 unless otherwise determined by the Secretary of Defense pursuant thereto.

6. That on the termination of this permit, the permittee shall vacate the said premises, remove its property therefrom, and return the premises in a condition satisfactory to the Secretary of the Army.

IN WITNESS WHEREOF I have hereunto set my hand by authority of the Secretary of the Army this 12th day of November, 1986.

R. P. TURNER
Acting Chief, Real Estate Division
U.S. Army Corps of Engineers
Norfolk District

Attach E

ORIGINAL

CONSENT FOR ACCESS TO PROPERTY

FROM: The United States Army Materiel Command, U.S. Department of the Army (AMC)

TO: The United States Environmental Protection Agency (EPA)

RE: Defense General Supply Center, Defense Logistics Agency (DLA), a defense agency of the Department of Defense, encompassing approximately 640 acres, located at Route 1, Richmond, in Chesterfield County, Virginia, 23297-5000.

Acting in my capacity as Commander of the U.S. Army Materiel Command, the Army agency having administrative responsibility for the above described property on behalf of the Department of the Army, which is the federal agency controlling the property on behalf of the owner of record, the United States of America, and subject to the conditions set out below, I consent to the following:

A. AMC will raise no objection to, nor prevent or interfere with, officers, employees, and authorized representatives of EPA entering upon the above described property as a consequence of and in furtherance of its participation in the Federal Facility Agreement between EPA, DLA, and the Commonwealth of Virginia for the following purposes:

1. Taking of such soil, water, and air samples as may be determined to be necessary;

2. Sampling of any solids or liquids stored or disposed of on Site;

3. Drilling of holes and installation of monitoring wells for subsurface investigation;

4. Other actions related to the investigation of surface or subsurface contamination; and,

5. Taking any and all response actions, conducted pursuant to the Federal Facility Agreement between EPA, DLA, and the Commonwealth of Virginia, Administrative Docket Number FCA-CERC-006 (1990).

ORIGINAL

B. It is understood that any actions taken by EPA under this Consent For Access To Property are undertaken pursuant to EPA's response and enforcement responsibilities as set forth in the above referenced Federal Facility Agreement, promulgated under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended, 42 U.S.C. §9601 et seq.

C. This Consent For Access To Property does not waive or limit any authority of DLA or its installation commander under the Internal Security Act of 1950, 50 U.S.C. §797, the above referenced Federal Facility Agreement, or any other applicable federal authority.

D. This Consent For Access To Property does not waive or limit any authority of EPA to obtain access under the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. §§6901 et seq., and CERCLA.

E. By giving this Consent For Access To Property, neither AMC nor the Department of the Army enters into or joins as a party in any way or under any circumstances the above referenced Federal Facility Agreement; nor do they commit to do any work or action under that Agreement; nor do they admit to any liability for any environmental contamination existing at the above referenced DLA facility.

William G. T. Tuttle, Jr.

WILLIAM G. T. TUTTLE, JR.
General, U.S. Army
Commanding

2 Nov 1990
Date