

**AMENDMENT TO THE FEDERAL FACILITY AGREEMENT
NAVAL WEAPONS STATION SEAL BEACH DETACHMENT
CONCORD, CALIFORNIA**

Whereas, pursuant to the Defense Base Closure and Realignment Commission's final and Congressionally-approved recommendations, the Navy has divided the Concord Naval Weapons Station Superfund Site into two separate parcels--the Concord Tidal Area and the Concord Inland Area and, effective October 1, 2008, transferred the Concord Tidal Area plus 115 retained acres of the Inland Area (hereinafter collectively referred to as the "Concord Tidal Area") from the Navy to the United States Department of the Army ("Army");

Whereas, the Army operates the Concord Tidal Area as an active installation and assumed all real property accountability for the Concord Tidal Area beginning on October 1, 2008, and the Navy has continued to be responsible for carrying out its responsibilities and exercising its authorities under the FFA for the Concord Inland Area;

Now therefore, the Parties agree as follows:

Army's Assumption of Responsibility. With respect to the Concord Tidal Area, the Army is in the same position as the Navy would have been, had the Site remained under the Navy's exclusive jurisdiction. After October 1, 2008, therefore, the Army became the lead Federal agency for the conduct of response actions consistent with CERCLA Section 120 at the Concord Tidal Area and has assumed all of the Navy's responsibilities, obligations, liabilities and authorities under the FFA for the Concord Tidal Area.

Terminology. The substance and text of the FFA will remain unchanged, except as necessary to accommodate the transfer of responsibilities from the Navy to the Army for the Concord Tidal Area. When the matter is applicable to the Concord Tidal Area, the following four changes shall apply: (1) the terms "Party" or "Parties" shall include EPA, the State of California, through the Department of Toxic Substances Control and the Regional Water Quality Control Board, San Francisco Bay Region (collectively, the "State"), and the Army (and exclude the Navy); (2) the term "Navy" shall be superseded by the term "Army" (and exclude the Navy); (3) the term "NAVFAC" shall be superseded by the term "Army"; and (4) the term "ER,N" shall be superseded by the term "ER,A".

Amendment of Specific Provisions. The following provisions of the FFA are amended as set forth below:

Section 2.

- "Army" shall mean the U.S. Department of the Army, its employees, members, successors and authorized representatives, and assigns. "Army" shall also include

the U.S. Department of Defense, to the extent necessary to effectuate the terms of this Agreement, including, but not limited to, appropriations, funding and Congressional Reporting Requirements.

- “Concord Inland Area” shall mean approximately 5300 acres of the former Naval Weapons Station Seal Beach Detachment Concord retained by the Navy as shown on Attachment A.
- “Concord Tidal Area” shall mean approximately 6400 acres of the former Naval Weapons Station Seal Beach Detachment Concord made up of the Tidal property and a portion of the Inland property necessary to support Army operations as shown on Attachment B.

Section 3.1.

The Parties to this Agreement include the Army and the terms of the Agreement shall apply to, and be binding upon, the Army with regard to the Concord Tidal Area.

Section 6.

The physical descriptions of the Inland Area and Tidal Area are as now described by the definitions of the Concord Inland Area and the Concord Tidal Area added to Section 2 described above

Section 10.

Paragraph 10.3(d). The disagreement referred to in the original FFA regarding additional primary documents has been resolved by EPA and DoD issuing the "Principles and Procedures for Specifying, Monitoring and Enforcement of Land Use Controls and Other Post-ROD Actions" on October 2, 2003. The Navy has implemented this guidance at the Concord facility. The Army agrees that it will implement this guidance for its work under the FFA at the Concord Tidal Area.

Section 16.

The following are the appropriate contacts for Notice under the FFA:

For the Navy: change contact name and address to:

Kathryn Stewart
BRAC PMO West
1455 Frazee Road, Suite 900
San Diego, California 92108

For the Army:

Guy Romine
Army Environmental Command
19932 SE Foster Road
Boring, OR 97089
(971) 645-3645

For EPA: change contact name to Phillip Ramsey (SFD 8-3); address unchanged.

For the California Department of Toxic Substances Control: no change

For the California Regional Water Quality Control Board: change contact name to Executive Officer; address unchanged.

Section 22.

For purposes of Dispute Resolution, the following are the appropriate contacts for the Navy and the Army:

- Para. 22.4: change the Navy's designated member on the DRC to the Director, Department of the Navy BRAC Program Management Office or his/her delegatee.
- Para. 22.4: add, after equivalent Navy statement, "With respect to disputes regarding Concord Tidal Area, the Army's designated member of the DRC is the Installation Commander.
- Para. 22.6: change the Navy's representative on the SEC to the Deputy Assistant Secretary of the Navy (Environment) or his/her delegate.
- Para. 22.6: add, after equivalent Navy statement, "With respect to disputes regarding Concord Tidal Area, the Army's representative on the SEC is the Assistant Secretary of the Army (Installations and Environment)." Add, at the end of the fifth sentence, "and the Assistant Secretary of the Army (Installations and Environment)." Add, at the end of the sixth sentence, "and/or the Assistant Secretary of the Army (Installations and Environment)." In the tenth sentence, after "Secretary of the Navy," add "or Secretary of the Army." In the eleventh sentence, after "Navy" add "or the Army." Add, at the end of the paragraph: "Throughout the SEC process for disputes regarding Concord Tidal Area, the Assistant Secretary of the Army (Installations and Environment) will have the same responsibilities and be entitled to the same notice as specified for the Deputy Assistant Secretary of the Navy (Environment), in this paragraph."
- Para. 22.7: Replace existing Para. 22.7 with: "Upon escalation of a dispute to the Administrator of EPA pursuant to Subsection 22.6 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 confer with the Secretary of the Navy to discuss the issue(s) under dispute. Upon request, and prior to resolving a dispute regarding Concord Tidal Area, the EPA Administrator shall meet and confer with the Secretary of the Army to discuss the issue(s) under dispute. Upon resolution, the Administrator shall provide the other Parties 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."

* * *

By signing below, the Army, the Navy, the State, and the EPA indicate their consent to the amendment of the FFA as described herein. Pursuant to Section 39.1 of the FFA, this amendment shall become effective on the third business day following the date on which EPA signs below. As the last signing party, EPA will provide notice to each signatory of the effective date pursuant to the notice provisions of Section 16 of the FFA. Within two weeks of the effective date, the Army will issue public notice of the Army's new role and entry into the FFA.

Each of the undersigned representatives of the parties certifies that he or she is authorized to enter into the terms and conditions of this amended FFA and to bind such party to this amended FFA.

IT IS SO AGREED:

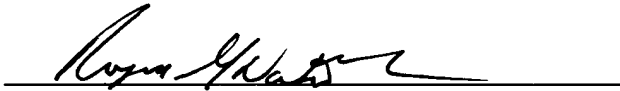
By



Deputy Assistant Secretary of the Army
(Environment, Safety and Occupational Health)

SEP 30 2009

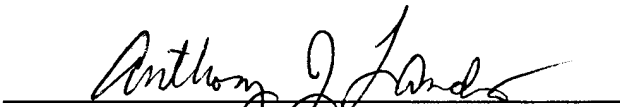
Date



Principal Deputy Assistant Secretary of the
Navy (Installations and Environment)

9/23/09

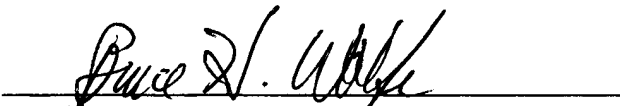
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California Department of Toxic Substances
Control

10-8-09

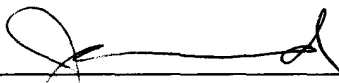
Date



California Regional Water Quality Control
Board, San Francisco Bay Region

10/19/09

Date



for Regional Administrator
U.S. Environmental Protection Agency
Region IX

11/17/2009
Date